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सं. 32] नई दिल्ली, अगस्त 2-अगस्त 8, 2009, शनिवार/श्रावण 11-श्रावण 17, 1931

No. 32] NEW DELHI, AUGUST 2-AUGUST 8, 2009, SATURDAY/SRAVANA 11-SRAVANA 17, 1931

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिक्षा एवं पेशा मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 29 जुलाई, 2009

का.अं. 2090.—केन्द्रीय सरकार दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा उत्तराखण्ड राज्य सरकार के गृह विभाग के दिनांक 8 जुलाई, 2009 की अधिसूचना संख्या 542/XX(1)/126/के.अ. ब्यूरो/2009 द्वारा प्राप्त सहमति से श्री रणवीर सिंह, पुत्र श्री रविन्द्र पाल, निवासी-साहिबाबाद, गाजियाबाद (उत्तर प्रदेश), स्थायी निवासी-खेकड़ा, जिला बागपत की देहरादून में कथित पुलिस मुठभेड़ (एनकाऊंटर) में हुई हत्या के संबंध में पुलिस चौकी दालानवाला जिला देहरादून में भारतीय दण्ड संहिता (आई.पी.सी.) (1860 की अधिनियम संख्या 45) की धारा 394 के तहत अपराध मामला संख्या 143/09 पुलिस चौकी, रायपुर जिला देहरादून में 1959 (1959 की अधिनियम संख्या 54) की धारा 25 के तहत 99/09 तथा पुलिस चौकी, रायपुर जिला देहरादून में आई.पी.सी. (1860 की अधिनियम संख्या 45) की धारा 147, 148, 149, 302, 506 के तहत अपराध मामला संख्या 101/09, के अन्वेषण तथा उपयुक्त वर्णित अपराधों के

संबंधित अथवा उनसे जुड़े प्रत्यक्ष, दूरगामी और पड़ोसी तथा उसी सख्यवहार के क्रम में किए गए अन्यथा तथा से उद्भव किसी अन्य अपराध अथवा अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का निम्नलिखित संपूर्ण उत्तराखण्ड राज्य के संबंध में करती है।

[संख्या 218/37/2009-ए.पी.डी.-II]

चन्द्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

New Delhi, the 29th July, 2009

S.O. 2090.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Uttarakhand Home Department vide Notification No. 542/XX(1)/126/CB1/2009 dated 8th July, 2009, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttarakhand for investigation of case Crime Nos. 143/09 U/s. 394 IPC (Act No. 45 of 1860), P.S.

2738 61/2009 (4531)
[संख्या 218/37/2009-ए.पी.डी.-II]
चन्द्र प्रकाश, अवर सचिव

Dalanwala, Distt. Dehradun, 98/09-U/s. 307 IPC, 99/09 U/s. 25 of Arms Act 1959 (Act No. 54 of 1959), P.S. Raipur Distt. Dehradun and Crime No. 101/09 U/s. 147, 148, 149, 302, 506 IPC (Act No. 45 of 1860), P.S. Raipur Distt. Dehradun, Uttarakhand relating to death of Shri Rambir Singh S/o Ravindra Pal, R/o Shahibabad, Ghaziabad (U.P.) permanent resident of Khekra, Distt. Bagpat in an alleged police encounter at Dehradun, Uttarakhand and attempts, abetments and conspiracies in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/37/2009-AVD-II]

CHANDRA PRAKASH, Under Secy.

नई दिल्ली, 4 अगस्त, 2009

क्रा.आ. 2091.—केन्द्रीय सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री एस. श्रीकुमार, अधिवक्ता, कोचीन को केरल उच्च न्यायालय, कोचीन में मामला सं. आरसी, 8 (एस)/93-केरल (सिस्टर अभ्या हत्या मामला) का और पुनरीक्षण या अपील न्यायालय में अपील, पुनरीक्षण या इनसे संबंधित अन्य कार्रवाईयों के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/7/2009-ए.वी.डी. II]

चन्द्र प्रकाश, अवर सचिव

New Delhi, the 4th August, 2009

S.O. 2091.—In exercise of the powers conferred by the provisions of sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri S. Sreekumar, Advocate, Cochin as Special Public Prosecutor or conducting case No.RC.8(S)/93-KER(Sister Abhaya murder case) in the Kerala High Court, Cochin and appeals, revisions in the appellate or revisional court and any other matter conferred therewith or incidental thereto.

[No. 225/7/2009-AVD-II]

CHANDRA PRAKASH, Under Secy.

कार्यालय मुख्य आयकर आयुक्त

जयपुर, 29 जुलाई, 2009

सं. 6/2009-10

क्रा.आ. 2092.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23सी) की उप-धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्द्वारा निर्धारण वर्ष 2009-2010 एवं आगे के लिए कथित धारा के उद्देश्य से "सिघनिया यूनिवर्सिटी, पचेरी बाड़ी, जिला-झुन्झुनू" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उप-खण्ड (23सी) की उप-धारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक: मुआआ/अआआ/(मु)/जय/10(23सी)(vi)/09-10/1620]

बी. एस. दिल्ली, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX

Jaipur, the 29th July, 2009

No. 6/2009-10

S.O. 2092.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Singhania University, Pachari Badi, Distt. Jhunjhunu" for the purpose of said Section for the A. Yrs. 2009—2010 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl.CIT(Hqrs.)/10(23C)

(vi)2009-10/1620]

B. S. DHILLON, Chief Commissioner of Income-tax

जयपुर, 30 जुलाई, 2009

सं. 7/2009-10

क्रा.आ. 2093.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23सी) की उप-धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्द्वारा निर्धारण वर्ष 2008-2009 एवं आगे के लिए कथित धारा के उद्देश्य से "दिगांतर शिक्षा एवम् खेल कूद समिति, गांव-टोडी रामजानीपुरा, जगतपुरा, जयपुर" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उप-खण्ड (23सी) की उप-धारा (vi) के प्रावधानों के अनुरूप कार्य करें।

[क्रमांक: मुआआ/अआआ/(मु)/जय/10(23सी)(vi)/09-10/1648]

बी. एस. दिल्ली, मुख्य आयकर आयुक्त

Jaipur, the 30th July, 2009

No. 7/2009-10

S.O. 2093.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Diganter Shikhsa Evam Khel Kood Samiti, Village-Todi Ramjanipura, Jagatpura, Jaipur" for the purpose of said Section for the A. Yrs. 2008-2009 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/Addl.CIT(Hqrs.)/10(23C)(vi)2009-10/1648]

B. S. DHILLON, Chief Commissioner of Income-tax

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 31 जुलाई, 2009

का.आ. 2094.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खण्ड (ii) के प्रयोजनार्थ कर निर्धारण वर्ष 2008-09 से आगे संगठन आई रिस्चर्व फाउंडेशन, चेन्नई को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में संलग्न 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, नामतः :-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा।
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा इसके नामांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान को जारी रखेगा ;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त धनराशि के संबंध में अलग बही-खाता रखेगा। अनुसंधान करने के लिए प्रयुक्त राशि को उसमें दर्शाएगा तथा उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से ऐसी खाता-बही की लेखा परीक्षा करायें और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय की विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट माप्तले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का असंग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अलग लेखा बही नहीं रखेगा, अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त दान एवं प्रयुक्त राशि का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य कलाप करना बंद कर देगा अथवा इसके अनुसंधान कार्य कलाप को जायज नहीं पाया जाएगा; अथवा

(ङ) उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खण्ड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनको पालन नहीं करेगा।

[अधिसूचना सं. 59/2009/फा. सं. 203/41/2009-आ.क.नि.-II]

डॉ. सजय कुमार लाल, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 31st July, 2009

S.O. 2094.—It is hereby notified for general information that the organization The Eye Research Foundation, Chennai, has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from Assessment year 2008-09 onwards in the category of 'other Institution', partly engaged in research activities subject to the following conditions, namely :-

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :-

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in subparagraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or

- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 59/2009/F. No. 203/41/2009/ITA-II]

Dr. SANJAY KUMAR LAL, Under Secy.

नई दिल्ली, 31 जुलाई, 2009

क्र.आ. 2095.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के 5ग और 5इ के साथ पठित आयकर अधिनियम 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खण्ड (iii) के प्रयोजनार्थ कर निर्धारण वर्ष 2008-09 के आगे से संगठन इन्स्टीट्यूट ऑफ रूरल मैनेजमेंट, आनन्द, गुजरात को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में संलग्न 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, नामतः :-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग सामाजिक विज्ञान में अनुसंधान के लिए किया जाएगा।
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से सामाजिक विज्ञान में अनुसंधान अथवा सांख्यिकीय अनुसंधान करेगा;
- (iii) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए इसका द्वारा प्राप्त धनराशि के संबंध में अलग बही-खाता रखेगा जिसमें अनुसंधान करने के लिए प्रयुक्त राशि दर्शाई गई हो, उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
- (iv) अनुमोदित संगठन सामाजिक विज्ञान के अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित पृथक लेखा बही नहीं रखेगा, अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित सामाजिक विज्ञान में अनुसंधान अथवा सांख्यिकीय अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा

- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा

- (ङ) उक्त नियमावली के नियम 5ग और 5इ के साथ पठित उक्त अधिनियम की धारा 35 की उप-धारा (1) के खण्ड (iii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 60/2009/फा. सं. 203/83/2008-आ.क.नि.-II]

डॉ. संजय कुमार लाल, अवर सचिव

New Delhi, the 31st July, 2009

S.O. 2095.—It is hereby notified for general information that the organization Institute of Rural Management, Anand, Gujarat, has been approved by the Central Government for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from Assessment year 2008-09 onwards in the category of 'other Institution', partly engaged in research activities subject to the following conditions, namely :—

- (i) The sums paid to the approved organization shall be utilized for research in social sciences;
- (ii) The approved organization shall carry out research in social science or statistical research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for research in social sciences and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization:

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or

(c) fails to furnish its statement of the donations received and sums applied for research in social sciences or statistical research referred to in sub-paragraph (iv) of paragraph 1; or

(d) ceases to carry on its research activities or its research activities are not found to be genuine; or

(e) ceases to conform to and comply with the provisions of clause (iii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 60/2009/F. No. 203/83/2008/ITA-II]

Dr. SANJAY KUMAR LAL, Under Secy.
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 5 अगस्त, 2009

का.आ. 2096.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उप-खण्ड (1) और खण्ड 8 के उप-खण्ड (1) के साथ पठित बैंककारी कंपनी (अयकर्म) का अधिनियम, 1970/1980 की धारा 9 की उप-धारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, वर्तमान में ओरिएंटल बैंक ऑफ कामर्स के अध्यक्ष और प्रबंध निदेशक श्री आलोक कुमार मिश्रा (जन्म तिथि—दिनांक 23-9-1952) को उनके पदभार ग्रहण करने की तारीख से और दिनांक 30-9-2012 तक, अर्थात् महीने के अंतिम दिन, जिस दिन से अधिवर्षिता की आयु पूरी करेंगे और/अथवा अगला आदेश होने तक, जो भी पहले हो, बैंक ऑफ इंडिया के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/8/2009-बी.ओ.-1]

जी. बी. सिंह, उप सचिव

(Department of Financial Services)

New Delhi, the 5th August, 2009

S.O. 2096.—In exercise of the powers conferred by clause (a) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri Alok Kumar Misra (DoB-23-9-1952) presently Chairman Managing Director, Oriental Bank of Commerce as Chairman Managing Director, Bank of India from the date of his taking charge of the post and for a period upto 30-9-2012 i.e. the date of his superannuation or until further orders, whichever is earlier.

[F. No. 9/8/2009-BO.1]

G B. SINGH, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 22 जून, 2009

का.आ. 2097.—केन्द्रीय सरकार दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दंत चिकित्सा परिषद् से परामर्श

करने के लक्ष्यार्थ दंत अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित संशोधन कारी है, अर्थात्:-

दंत चिकित्सक अधिनियम, 1948 की अनुसूची के भाग-1 में क्रम सं. 78 के उपरंत, निम्नलिखित क्रम संख्या और प्रविष्टियां शामिल (अंतःस्थापित) की जाएंगी, अर्थात्:-

सविता विरवविद्यालय (सम विरवविद्यालय) चेन्नई

दंत शल्य चिकित्सा निष्णात

एमडीएस (ओरल एंड मैक्सिलो फेशियल सर्जरी) सविता विरवविद्यालय (सम विरवविद्यालय), चेन्नई

(यदि यह 14-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

एमडीएस (पेरियो-डॉटिक्स) एमडीएस (पेरियो.) सविता विरवविद्यालय, चेन्नई

(यदि यह 17-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

एमडीएस (ऑर्थो-डॉटिक्स) एमडीएस (ऑर्थो.) सविता विरवविद्यालय, चेन्नई

(यदि यह 14-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

एमडीएस (प्रोस्थो-डॉटिक्स) एमडीएस (प्रोस्थो.) सविता विरवविद्यालय, चेन्नई

(यदि यह 17-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

एमडीएस (ओरल एंड मैक्सिलो फेशियल) एमडीएस (ओरल एंड मैक्सिलो फेशियल) सविता विरवविद्यालय, चेन्नई

(यदि यह 17-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

एमडीएस (ओरल एंड मैक्सिलो फेशियल) एमडीएस (ओरल एंड मैक्सिलो फेशियल) सविता विरवविद्यालय, चेन्नई

(यदि यह 19-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

एमडीएस (पेडो-डॉटिक्स) एमडीएस (पेडो.) सविता विरवविद्यालय, चेन्नई

(यदि यह 21-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

एमडीएस (कम्प्यूनिटी डेंटिस्ट्री) एमडीएस (कम्प्यूनिटी) सविता विरवविद्यालय, चेन्नई

(यदि यह 21-6-2008 को अथवा उसके उपरंत प्रदान की गई हो)

[सं. की-12017/23/2002-डी ई]

आर. संकरन, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 22nd June, 2009

S.O. 2097.—In exercise of the powers conferred by sub-section (2) of section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely:—

2. In part-I of the Schedule to the Dentists Act, 1948, after serial No.78, the following serial number and entries shall be inserted, namely:—

“79 Saveetha University 1. Saveetha Dental Collage & Hospital, Chennai
(Deemed University) Chennai

Master of Dental Surgery

MDS (Oral & Maxillo-facial Surgery) (if granted on or after 14-6-2008)	MDS (Oral Surgery), Saveetha University (Deemed University) Chennai
MDS Perio-dontics (if granted on or after 17-6-2008)	MDS (Perio), Saveetha University (Deemed University) Chennai
MDS (Ortho-dontics) (if granted on or after 14-6-2008)	MDS (Ortho), Saveetha University (Deemed University) Chennai
MDS (Prosthodontics) (if granted on or after 17-6-2008)	MDS (Prosthodontics), Saveetha University (Deemed University) Chennai
MDS (Oral Pathology) (if granted on or after 17-6-2008)	MDS (Oral Path), Saveetha University (Deemed University) Chennai
MDS (Oral Medicine & Radiology) (if granted on or after 19-6-2008)	MDS (Oral Med. & Radiology) Saveetha University (Deemed University) Chennai
MDS (Pedodontics) (if granted on or after 21-6-2008)	MDS (Pedodontics), Saveetha University (Deemed University) Chennai
MDS (Community Dentistry) (if granted on or after 21-6-2008)	MDS (Community) Saveetha University (Deemed University) Chennai”.

[No. V-12017/23/2002-DE]
R. SANKARAN, Under Secy.

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 27 जुलाई, 2009

क्र.अ. 2098.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की प्रथम अनुसूची में अर्हता की नाम-पद्धति में परिवर्तन होने के कारण एतद्द्वारा निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अनुसूची में—

(क) शीर्षक “मान्यता प्राप्त चिकित्सा अर्हता” [इसके पश्चात् स्तंभ (2) के रूप में उल्लिखित] के अन्तर्गत “प्रवार आयुर्विज्ञान संस्थान (सम विश्वविद्यालय)” के सामने अंतिम प्रविष्टि तथा शीर्षक ‘पजीकरण के लिए संक्षेपण’ [इसके पश्चात् स्तंभ (3) के रूप में संदर्भित] के अन्तर्गत उससे संबंधित प्रत्येक प्रविष्टि के बाद निम्नलिखित जोड़ा जाएगा, अर्थात्:—

(2)	(3)
“शल्य चिकित्सा निष्णात (नेत्र विज्ञान)”	एम.एस. (नेत्र विज्ञान) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी यदि यह रूरल मेडिकल कॉलेज, लोनी में प्रशिक्षण प्राप्त कर रहे छात्रों के संबंध में प्रवार आयुर्विज्ञान संस्थान (सम विश्वविद्यालय) द्वारा मई, 2008 में अथवा उसके उपरांत प्रदान की गई हो।)
“शल्य चिकित्सा निष्णात (अस्थि रोग विज्ञान)”	एम.एस. (अस्थि रोग विज्ञान) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी यदि यह रूरल मेडिकल कॉलेज, लोनी में प्रशिक्षण प्राप्त कर रहे छात्रों के संबंध में प्रवार आयुर्विज्ञान संस्थान (सम विश्वविद्यालय) द्वारा मई, 2008 में अथवा उसके उपरांत प्रदान की गई हो।)

[सं. यू-12012/21/2008-एम.ई. (नीति-II)]

के. वी. एस. राव, उप सचिव

(Department of Health and Family Welfare)

New Delhi, the 27th July, 2009

S.O. 2098.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby, makes the following amendments in the First Schedule to the

said Act, due to change of nomenclature of the qualification namely:—

In the said Schedule—

a) against “Pravara Institute of Medical Sciences (Deemed University)” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereafter referred to as column (3)], the following shall be inserted, namely:—

(2)	(3)
“Master of Surgery (Ophthalmology)”	MS (Ophthalmology) (This shall be a recognised medical qualification when ganted by Pravara Institute of Medical Sciences (Deemed University) in respect of students being trained at Rural Medical College, Loni on or after May, 2008
“Master of Surgery (Orthopaedics)”	MS (Orthopaedics) (This shall be a recognised medical qualification when ganted by Pravara Institute of Medical Sciences (Deemed University) in respect of students being trained at Rural Medical College, Loni on or after May, 2008

[No. U. 12012/21/2008-ME (P.II)]
K. V. S. RAO, Dy. Secy.

सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय

नई दिल्ली, 13 मई, 2009

का.आ. 2099.—कयर उद्योग अधिनियम, 1953 (1953 का 45) की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों के अनुपालन में, केन्द्र सरकार, लोकसभा में पूर्व सांसद श्री वी.एस. विजय राघवन को, 5 दिसम्बर, 2008 से तीन वर्ष की अवधि के लिए, या उनके सत्तर वर्ष की आयु प्राप्त करने तक, इनमें से जो भी पहले हो, कयर बोर्ड, कोचीन का अध्यक्ष नियुक्त करती है।

[फाइल संख्या-2(4)/2002-कयर/स्था.]

पी. एस. वर्मा, अवर सचिव

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES

New Delhi, the 13th May, 2009

S.O. 2099.—In exercise of the powers conferred by sub-section (3) of Section 4 of the Coir Industry Act, 1953 (45 of 1953), the Central Government hereby appoints Shri V. S. Vijayaraghavan, former Member of Parliament in

Lok Sabha as the Chairman of the Coir Board, Cochin, for a period of three years with effect from 5th December, 2008 or till he attains the age of seventy years, whichever is the earlier.

[F. No. 2(4)/2002-Coir/Estt.]

P. S. VERMA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 21 जुलाई, 2009

का.आ. 2100.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधनों की संख्या और तिथि	संशोधन लागू होन की तिथि
(1)	(2)	(3)	(4)
1.	1489 (भाग 1): 1991	5 जून, 2009	15 जुलाई, 2009
2.	4031 (भाग 2): 1999	1 जुलाई, 2009	31 जुलाई, 2009
3.	4926:2003	1 जून, 2009	30 जून, 2009
4.	2386 (भाग 7): 1963	2 जून, 2009	30 जून, 2009
5.	4031 (भाग 12): 1988	1 जून, 2009	30 जून, 2009
6.	9012:1978	1 जून, 2009	30 जून, 2009

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ:सीईडी/राजपत्र]

ए. के. सेनी, वैज्ञानिक ‘एफ’ व प्रमुख (सिविल इंजीनियरी)

**MINISTRY OF CONSUMER AFFAIRS, FOOD AND
PUBLIC DISTRIBUTION**

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 21st July, 2009

S.O. 2100.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
1	2	3	4
1.	1489 (Part 1): 1991	5 June, 2009	15 July, 2009
2.	4031 (Part 2): 1999	1 July, 2009	31 July, 2009
3.	4926:2003	1 June, 2009	30 June, 2009
4.	2386 (Part 7): 1963	2 June, 2009	30 June, 2009
5.	4031 (Part 12): 1988	1 June, 2009	30 June, 2009
6.	9012:1978	1 June, 2009	30 June, 2009

Copies of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 21 जुलाई, 2009

क्र.आ. 2101.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधनों की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 902: 1992	संशोधन संख्या-2 23 जुलाई, 2009	23 जुलाई, 2009

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ:सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 21st July, 2009

S.O. 2101.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl.No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
1	2	3	4
1.	IS 902: 1992	Amendment No. 2 July 2009	15 July, 2009

Copies of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 29 जुलाई, 2009

क्र.आ. 2102.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक

ब्यूरो एतद्द्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधनों की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	1489 (भाग 2): 1991	4 जून, 2009	20 जुलाई, 2009
2.	455:1989	6 जून, 2009	24 जुलाई, 2009
3.	8112:1989	9 जून, 2009	24 जुलाई, 2009

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बटूर, गुवाहटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ:सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' व प्रमुख (सिविल इंजीनियरी)

New Delhi, the 29th July, 2009

S.O. 2102.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl.No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
1	2	3	4
1.	1489 (Part 2): 1991	4 June, 2009	20 July 2009
2.	455:1989	6 June, 2009	24 July 2009
3.	8112:1989	9 June, 2009	24 July 2009

Copies of these amendments are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

(खाद्य और सार्वजनिक वितरण विभाग)

नई दिल्ली, 4 अगस्त, 2009

का.अ. 2103.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय (खाद्य और सार्वजनिक वितरण विभाग) के प्रशासनिक नियंत्रणाधीन भारतीय खाद्य निगम के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है:-

1. भारतीय खाद्य निगम,
जिला कार्यालय,
फरीदाबाद, हरियाणा
2. भारतीय खाद्य निगम,
आंचलिक कार्यालय,
कोलकाता, पश्चिम बंगाल

[संख्या ई-11011/1/2008-हिंदी]

नवीन प्रकाश, संयुक्त सचिव

(Department of Food and Public Distribution)

New Delhi, the 4th August, 2009

S.O. 2103.—In pursuance of Sub-rule (4) of rule 10 of the Official Language (use for official purpose of the Union) Rules, 1976 the Central Government hereby notifies the following offices of Food Corporation of India under the administrative control of the Ministry of Consumer Affairs, Food & Public Distribution (Deptt. of Food & Public Distribution), where of more than 80% of staff have acquired the working knowledge of Hindi:

1. Food Corporation of India,
Distt. Office,
Faridabad, Harayana
2. Food Corporation of India,
Zonal Office,
Kolkata, West Bangal

[No. E-11011/1/2008-Hindi]

NAVEEN PRAKASH, Jt. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 30 जुलाई, 2009

का.आ. 2104.—भारत सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि आन्ध्र प्रदेश राज्य में केसनपल्लि (पूर्व) से पासर्लपूडि टेप इन पाइपलाइन परियोजना से प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाइन बिछाई जानी चाहिए;

और भारत सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, भारत सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है ;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध कर दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के संबंध में, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, के. जी. बेसिन परियोजना, गैल भवन, ए.वी. अप्परावु रोड, राजामुंद्री-533103 आन्ध्र प्रदेश को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
(1)	(2)	(3)	(4)	(5)
पूर्व गोदावरि	अल्लवरम	गोडि	24/3	0.1740
			24/4	0.0283
			24/5	0.0405
			24/18	0.1052
			24/19	0.0931
			41/4 ए	0.0728
			41/4 बी	0.0364
			41/4 सी	0.0405
			41/7 ए	0.0405
			41/7 बी	0.1376
			45/5 ए	0.0890
			45/4	0.0890
			45/1	0.0405
			28/3	0.0647
			61/1	0.0445
			26	0.1862
			46	0.0890

[फा. सं. एल-14014/24/09-जी.पी.]

के. के. शर्मा, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 30th July, 2009

S. O. 2104.—Whereas it appears to Government of India that it is necessary in public interest that for transportation of natural gas from Kesanapalli (East) to Pasarlupudi Tap in Pipeline Project in the State of Andhra Pradesh, a pipeline should be laid by GAIL (India) Limited;

And, whereas it appears to Government of India that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification.

Now, therefore, in exercise of powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, (50 of 1962) Government of India hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the land described in the said Schedule may, within twenty one days from the date of which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Competent Authority, GAIL (India) Limited, K. G. Basin Project, GAIL Bhawan, A. V. Apparao Road, Rajahmundry-533103, Andhra Pradesh.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for R.O.U. (In Hect.)
East Godavari	Allavaram	Godi	24/3	0.1740
			24/4	0.0283
			24/5	0.0405
			24/18	0.1052
			24/19	0.0931
			41/4 A	0.0728
			41/4 B	0.0364
			41/4 C	0.0405
			41/7 A	0.0405
			41/7 B	0.1376
			45/5 A	0.0890
			45/4	0.0890
			45/1	0.0405
			28/3	0.0647
			61/1	0.0445
			26	0.1862
			46	0.0890

[F. No. L-14014/24/09-G.P.]

K. K. SHARMA, Under Secy.

नई दिल्ली, 3 अगस्त, 2009

का.आ. 2105.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का.आ. 716 तारीख 19-03-2009 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गेल (इण्डिया) लिमिटेड द्वारा तमिलनाडु राज्य में ए. के. एम. से मेमथूर (वाया नारिमानम) इंटर कनेक्टिविटी तक प्राकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 6-5-2009 तक उपलब्ध करा दी गई थी;

और पाइपलाइन बिछाने के संबंध में जनता से कोई आक्षेप प्राप्त नहीं हुआ है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन भारत सरकार को अपनी रिपोर्ट दे दी है;

और भारत सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह संतुष्ट हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उस में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्देश देती है कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, भारत सरकार में निहित होने के बजाए, पाइपलाइन बिछाने का प्रस्ताव करने वाली गेल (इण्डिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त, गेल (इण्डिया) लिमिटेड में निहित होगा।

अनुसूची

जिला अर्जित	तहसील	गांव	सर्वे नं.	आर.ओ.यू. करने के लिए क्षेत्रफल (हेक्टेयर में)
(1)	(2)	(3)	(4)	(5)
थिरुवरूर	थिरुवरूर	19.अलि-129/6		0.02.0
		वलम	130/4	0.01.0जी.पी.
			130/5	0.01.0
			130-6	0.04.0
			130-7	0.01.5
			18-1	0.05.5
			17-3	0.10.0
			13	0.01.0जी.पी.
			कुल	0.26

(1)	(2)	(3)	(4)	(5)
थिरुवरूर	थिरुवरूर	19/1	285-2सी	0.01.0
		करूपूर	284-2	0.06.0
			283-2ए	0.02.5
			283-2बी	0.02.0
			283-6	0.01.0
			283-5	0.01.0
			283-7	0.01.5
			282-2	0.02.5
			283-3ए	0.01.5
			282-3बी	0.06.0
			281-1	0.06.5
			280	0.06.0
			284-1	0.01.0जीपी
			कुल	0.38.5
	17 अडियक- मंगलम		290-1एल	0.04.0
			290-2	0.02.0
			289	0.01.0जीपी
			281-1	0.02.0
			281-2	0.02.0
			281-3ए1	0.01.5
			281-4	0.04.0
			1-फरवरी	0.01.5
			2-फरवरी	0.01.0जीपी
			3-फरवरी	0.02.5
			1	0.09.0
			292-2	0.02.5
			292-4	0.02.0
			292-6	0.02.0
			292-8	0.01.0
			271-1	0.05.0
				(18 mtr. Width)
			271-2	0.15.0
				(18 mtr. width)
				0.07.0
				(5 mtr. Width)
			272	0.05.5
				(18 mtr. width
			266	0.05.5 G.P
				(18 mtr. width)
			265-2	0.20.5
				(18 mtr. width)
			265-7	0.02.0
				(18 mtr. width)
			252-4A2	0.16.5
				(18 mtr. width)
			252-5A	0.04.0
				(18 mtr. width)
			249	0.01.0 G.P
				(5 mtr. Width)

(1)	(2)	(3)	(4)	(5)	(4)	(5)
थिरुवरूर	थिरुवरूर	17 अडियक-243-1	0.01.5		थिरुवरूर	थिरुवरूर
	मंगलम		(5 mtr. Width)		11. कल्लि- कुडी	210-6A 0.03.0
		243-3A	0.01.0			210-66B 0.01.5
			(5 mtr. Width)			210-6C 0.01.0
		243-2A	0.03.5			210-4 0.01.0
			(5 mtr. Width)			210-5 0.01.0
		243-2B	0.02.5			209-8A 0.00.5
			(5 mtr. Width)]			209-8B 0.00.5
		कुल	1.28.5			209-9 0.02.0
	11. कल्लि- कुडी	279B	0.02.0 G.P			209-7 0.02.0
		178-11	0.02.0			कुल 0.88.0
		178-20	0.03.0			188 0.01.0G.P.
		179-1	0.01.5			178-1A 0.06.0
		176-2	0.01.0 G.P			178-1B 0.01.5
		174-5	0.01.0			177-4 0.04.0
		174-6	0.01.0			177-3 0.01.0 G.P
		173-12	0.03.0			177-5 0.00.5 G.P
		173-18	0.02.0			177-6 0.01.0
		172-4	0.01.0			177-7A 0.01.0
		172-9	0.01.0			177-7B 0.01.0
		172-8	0.02.0			175-8 0.01.0
		168-3	0.02.5			174 0.00.5 G.P
		164-1A1	0.02.0			159A-10 0.02.0
		164-1B1	0.03.5			159A-11A 0.02.0
		164-1B2	0.00.5			159A-11B 0.01.0
		164-3	0.00.5			159A-2 0.01.0
		164-4	0.00.5			148-4 0.06.5
		162-5B	0.01.5			148-3 0.01.0 G.P
		162-7	0.02.0			148-2B 0.06.0
		167-1	0.01.0 G.P			147-1D 0.04.5
		180B	0.01.0 G.P			147-1E1 0.01.0
		183-6	0.02.5			145-3 0.02.5
		183-1B	0.05.5			145-2A 0.01.5
		183-7	0.01.0 G.P			145-2B 0.02.0
		192-1	0.03.0			145-6 0.04.5
		192-2	0.02.0			147-2 0.00.5 G.P
		192-6	0.02.0			145-5 0.00.5 G.P
		192-8	0.02.0			145-4 0.00.5 G.P
		193-1A	0.01.5			126-A 0.00.5 G.P
		195-4	0.02.0			106 0.00.5 G.P
		193-2	0.04.0			107-4 0.01.0 G.P
		195-2	0.01.0 G.P			107-5B 0.02.5
		195-1C	0.01.0			105-21 0.00.5
		195-5B	0.03.0			101-1 0.05.5
		197-7	0.03.5			102-1 0.08.0
		197-8	0.01.0 G.P			102-3 0.01.0 G.P
		211-4	0.04.0			88-1 0.01.0
		211-5	0.01.0			87-1 0.06.0
						87-3 0.03.0
						87-6 0.03.0
						87-5 0.01.0
						86-2 0.04.0
						86-3A 0.01.0 G.P
						कुल 0.94.0

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
थिरुवरूर	थिरुवरूर	18. सेमंगलम	223	0.05.0	नागपट्टिनम किल्वेलूर	8. एरवंचेरी	198-3	0.03.0	
			222	0.01.5 G.P			198-6	0.05.0	
			225-2A	0.01.0			67B	0.01.0 G.P	
			225-2B	0.01.5			68-1	0.04.0	
			226-1	0.02.0			68-2	0.03.5	
			226-2	0.01.0			1	0.29.5	
			226-3	0.04.0				(18 mtr.	
			226-4	0.03.5				width)	
			228-1	0.03.0			7-2A	0.21.5	
			230-3	0.04.0				(18 mtr.	
			26	0.01.5 G.P				width)	
			25-5	0.04.5			7-2B	0.10.0	
			27-1	0.01.0				(18 mtr.	
			24-1	0.01.0 G.P				width)	
			24-3	0.01.5			4-Jul	0.02.0	
			24-11B	0.02.0				(18 mtr.	
			24-12	0.02.0				width)	
			23-2	0.01.0			3-Jul	0.07.5	
			28-1	0.04.0				(18 mtr.	
			15-Aug	0.01.5				width)	
			14-Aug	0.01.0			1-Jul	0.01.0 G.P.	
			16-B	0.01.0 G.P				(18 mtr.	
			252-1	0.02.5 G.P				width)	
			कुल	0.51.0			कुल	1.40.5	
नागपट्टिनम किल्वेलूर	8. एरवंचेरी	149-2B	0.00.5		नागपट्टिनम किल्वेलूर	25. अगारा-	376-2	0.08.0	
		149-3	0.02.0			कडम्बन्नूर	376-1	0.01.0 G.P	
		149-4	0.01.0				375-1	0.02.0	
		149-5	0.01.0				375-2	0.02.0	
		149-6	0.01.0				383	0.02.5	
		149-8	0.01.0				295	0.05.0	
		149-11	0.01.0				294	0.07.5	
		149-12	0.01.0				293-1	0.02.0	
		147-1	0.04.0				293-2	0.01.0 G.P	
		147-2	0.02.0				कुल	0.31.0	
		149-13	0.01.0		नागपट्टिनम किल्वेलूर	25/3 वड-	323-1	0.01.0 G.P.	
		149-7	0.01.5 G.P			कुवेली	323-2	0.08.0	
		149-10	0.00.5 G.P				324-1	0.06.0	
		147-3	0.02.5				325	0.07.0	
		146-1	0.02.5				318	0.01.0 G.P	
		146-2	0.03.0				316	0.14.0	
		146-4	0.03.0					(18 mtr.	
		66	0.02.0 G.P					width)	
		68-3	0.00.5				315	0.16.5	
		195-3	0.03.0					(18 mtr.	
		195-4A	0.02.0					width)	
		195-4B	0.01.0				314-1	0.04.0 G.P	
		196-2	0.05.0					(18 mtr.	
		197-1	0.01.5					width)	
		197-2A	0.02.5				314-2	0.01.0 G.P	
		197-2B	0.01.0					(18 mtr.	
		197-3	0.02.0					width)	
		198-1	0.01.0 G.P						
		198-2	0.02.5				कुल	0.58.5	

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
नागपट्टिनम किल्बेलूर	20. अनै- मंगलम	94	0.08.5G.P.		नागपट्टिनम किल्बेलूर	2. ओक्कूर	71-2	0.02.5	
		96-2	0.42.0				71-3	0.02.0	
		245-2	0.24.5				71-4	0.00.5	
		244-1	0.03.0				74-1	0.04.5	
		244-2	0.05.0				73	0.03.0 G.P.	
		245-1	0.04.5				75-2	0.04.5	
		242-2	0.04.5				75-3	0.00.5 G.P.	
		247	0.23.5				76	0.06.5	
		249-1	0.01.0 G.P.				78-1	0.00.5 G.P.	
		249-2A	0.04.5				78-2	0.00.5 G.P.	
		249-2B	0.12.5				78-3	0.00.5 G.P.	
		249-2D	0.00.5				81-1	0.01.5	
		249-2C	0.15.0				81-2	0.00.5 G.P.	
		252-1	0.00.5 G.P.				82-2	0.06.5	
		252-2	0.00.5				20-1B	0.04.0	
		253-1	0.04.5				20-1C	0.01.5	
		253-2	0.03.5				20-3A1	0.03.0	
		253-3	0.12.5				20-2	0.00.5	
		269-1	0.19.0				234	0.03.0 G.P.	
		269-2	0.00.5				220-4A	0.03.5	
		271-1	0.00.5 G.P.				220-4B	0.05.0	
		271-2	0.16.5				220-4C	0.05.5	
		271-3	0.11.0				209-2A	0.01.5	
		272-5	0.03.0				209-2B	0.01.5	
		272-11	0.14.5				218-2	0.06.0	
		272-6	0.01.0 G.P.				218-3A	0.02.0	
		272-12	0.01.0 G.P.				221-2	0.06.0	
		267	0.06.0 G.P.				221-4	0.01.0	
		17-D1	0.01.0G.P.				210-2	0.00.5	
		17D-2	0.00.5				210-1	0.00.5 G.P.	
		17D-5	0.22.5 G.P.				216-1	0.02.0	
		231-1	0.00.5 G.P.				216-3	0.03.0	
		231-2	0.00.5				216-2	0.02.5	
		231-4	0.05.0				211-1	0.03.0	
		232-1	0.20.0				213	0.01.0	
		232-2	0.17.0				212-3	0.02.5	
		232-3	0.06.0				212-4	0.02.0	
		232-4	0.02.5				131	0.07.0	
		कुल	3.19.0				132	0.05.5	
नागपट्टिनम किल्बेलूर	2. ओक्कूर	126-1B	0.02.0				129	0.01.0 G.P.	
		126-2	0.00.5G.P.				286-2	0.03.0 G.P.	
		127-1	0.04.5				286-10	0.01.0	
		127-2	0.01.5				284-4	0.11.0	
		112	0.05.0				278-1A	0.02.0	
		111-2	0.03.0				278-3	0.03.5	
		110	0.09.0				277-4	0.03.0	
		107-2	0.00.5				277-5	0.12.0	
		108-1	0.00.5 G.P.				278-1B	0.02.0	
		108-2	0.00.5 G.P.				278-4	0.05.5	
		71-1	0.01.0				278-5	0.03.5	
							278-6	0.02.0 G.P.	
							277-2A	0.01.0	

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
नागपट्टिनम किल्चेलूर	2. ओक्कूर	277-2B	0.13.0		नागपट्टिनम किल्चेलूर	3. वॉकि-डंगल	32-8	0.00.5	
		277-3A	0.01.0				32-10A	0.00.5	
		276	0.03.0 G.P.				32-11	0.00.5	
		255-1	0.16.0				31-1	0.02.5	
		255-2	0.01.0				31-2	0.05.5	
		255-4	0.05.5				15-6	0.01.5	
		255-5	0.01.0				15-7	0.05.5	
		255-3	0.10.0				25	0.01.0 G.P.	
		254-1	0.26.0				24-1	0.03.5	
		253-1B	0.05.0				16-2	0.01.5	
		252-6A	0.02.5				16-3A	0.05.0	
		कुल	2.65.5				16-3B	0.06.0	
नागपट्टिनम किल्चेलूर	3. वॉकि-डंगल	110	0.01.0				2-7A	0.00.5	
		103-1B	0.01.0 G.P.				2-7B	0.00.5	
		103-2	0.00.5				2-5	0.00.5	
		104-1	0.02.0				2-6	0.02.5	
		104-2	0.03.0				1	0.00.5 G.P.	
		102	0.01.5 G.P.				कुल	1.06.0	
		97-3	0.04.5		नागपट्टिनम नागपट्टिनम	122 नारि-मानम	6-4	0.04.0	
		95-1	0.01.0				6-5	0.03.5	
		96-1	0.02.5				5-1	0.01.0	
		96-3	0.05.5				7-1	0.02.5	
		96-2	0.00.5 G.P.				2-4	0.03.5	
		94	0.01.0 G.P.				6-3	0.00.5	
		93-1	0.04.5				7-4A	0.00.5	
		93-2A	0.01.0				84-2	0.01.0 G.P.	
		77-1	0.00.5 G.P.				2-1	0.00.5 G.P.	
		73-1	0.02.0				4	0.01.0 G.P.	
		42	0.00.5 G.P.				कुल	0.18.0	
		40-4	0.00.5		नागपट्टिनम नागपट्टिनम	50 कुथा-लम	126-1A2	0.14.0	
		39	0.00.5 G.P.					(18mtr. Width)	
		38-1A	0.03.0				128-3B	0.01.0	
		38-1B	0.03.5					(5 mtr. Width)	
		37	0.00.5 G.P.				128-5	0.02.0	
		36-3	0.03.0					(5 mtr. Width)	
		36-4	0.01.5				128-4	0.03.0	
		36-5	0.01.5					(5 mtr. Width)	
		34-2B	0.02.5				128-1	0.01.0 G.P.	
		34-2C	0.01.0					(5 mtr. Width)	
		34-3	0.00.5 G.P.				कुल	0.21.5	
		28-1A	0.03.0						
		33-2A2	0.01.0						
		33-2B1	0.04.0						
		33-2B3	0.02.0						
		33-2B2	0.01.5						
		32-2B	0.04.0						
		32-3	0.02.0						
		32-9A	0.00.5						
		32-5	0.00.5						

[फाईल सं. एल-14014/23/09-जी.पी.]

के. के. शर्मा, अवर सचिव

New Delhi, the 3rd August, 2009

S. O. 2105.—Whereas by notification of Government of India in Ministry of Petroleum and Natural Gas number S.O. 716, dated the 19th March, 2009 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), Government of India declared its intention to acquire the Right of User in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of natural gas from AKM to Memathur (via Narimanam) Inter-connection gas pipeline project in the State of Tamilnadu by GAIL (India) Limited;

And whereas copies of the said Gazette notification were made available to the public on 06-05-2009;

And whereas no objections were received from the public to the laying of the said pipeline;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted its report to Government of India;

And whereas Government of India after considering the said report and on being satisfied that the said land is required for laying the pipelines, has decided to acquire the Right of User therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, Government of India hereby declares that the Right of User in the land specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, Government of India hereby directs that the Right of User in the land for laying the pipeline shall, instead of vesting in Government of India, vest, on this date of the publication of the declaration, in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for R.O.U. (In Hect.)
1	2	3	4	5
Thiruvavarur	Thiruvavarur	19. Alivalam	129/6	0.02.0
			130/4	0.01.0 G.P
			130-5	0.01.0
			130-6	0.04.0
			130-7	0.01.5
			18-1	0.05.5
			17-3	0.10.0
			13	0.01.0 G.P
			Total	0.26
Thiruvavarur	Thiruvavarur	19/1 Kacuppur	285-2C	0.01.0
			284-2	0.06.0
			283-2A	0.02.5
			283-2B	0.02.0
			283-6	0.01.0

1	2	3	4	5
Thiruvavarur	Thiruvavarur	19/1 Kacuppur	283-5	0.01.0
			283-7	0.01.5
			282-2	0.02.5
			282-3A	0.01.5
			282-3B	0.06.0
			281-1	0.06.5
			280	0.06.0
			284-1	0.01.0 G.P
			Total	0.38.5
Thiruvavarur	Thiruvavarur	17. Adiyalkamanag Alam	290-1L	0.04.0
			290-2	0.02.0
			289	0.01.0 G.P
			281-1	0.02.0
			281-2	0.02.0
			281-3A1	0.01.5
			281-4	0.04.0
			1-Feb	0.01.5
			2-Feb	0.01.0 G.P
			3-Feb	0.02.5
			1	0.09.0
			292-2	0.02.5
			292-4	0.02.0
			292-6	0.02.0
			292-8	0 0.01.0
			271-1	0.05.0 (18 mtr.width)
			271-2	0.15.0 (18 mtr. width)
				0.07.0 (5 mtr. width)
			272	0.05.5(18 mtr. width)
			266	0.05.5 G.P (18 mtr. width)
			265-2	0.20.5 (18 mtr width)
			265-7	0.02.0 (18 mtr. width)
			252-4A2	0.16.5 (18 mtr. width)
			252-5A	0.04.0 (18 mtr. width)
			249	0.01.0 G.P (5 mtr.width)
			243-1	0.01.5 (5 mtr. width)
			243-3A	0.01.0 (5 mtr. width)
			243-2A	0.03.5 (5 mtr. width)
			243-2B	0.02.5 (5 mtr. width)
			Total	1.28.5
Thiruvavarur	Thiruvavarur	11.Kallikudi	279B	0.02.0 G.P
			178-11	0.02.0
			178-20	0.03.0
			179-1	0.01.5
			176-2	0.01.0 G.P
			174-5	0.01.0
			174-6	0.01.0
			173-12	0.03.0
			173-18	0.02.0

1	2	3	4	5	1	2	3	4	5
Thiruvapur	Thiruvapur 11. Kallikudi	172-4	0.01.0		Nagapattinam	Kilvelur 9. Kurumanangudy	145-2B	0.02.0	
		172-9	0.01.0				145-6	0.04.5	
		172-8	0.02.0				147-2	0.00.5 G.P	
		168-3	0.02.5				145-5	0.00.5 G.P	
		164-1A1	0.02.0				145-4	0.00.5 G.P	
		164-1B1	0.03.5				126-A	0.00.5 G.P	
		164-1B2	0.00.5				106	0.00.5 G.P	
		164-3	0.00.5				107-4	0.01.0 G.P	
		164-4	0.00.5				107-5B	0.02.5	
		162-5B	0.01.5				105-21	0.00.5	
		162-7	0.02.0				101-1	0.05.5	
		167-1	0.01.0 G.P				102-1	0.08.0	
		180B	0.01.0 G.P				102-3	0.01.0 G.P	
		183-6	0.02.5				88-1	0.01.0	
		183-1B	0.05.5				87-1	0.06.0	
		183-7	0.01.0 G.P				87-3	0.03.0	
		192-1	0.03.0				87-6	0.03.0	
		192-2	0.02.0				87-5	0.01.0	
		192-6	0.02.0				86-2	0.04.0	
		192-8	0.02.0				86-3A	0.01.0 G.P	
		193-1A	0.01.5				Total	0.94.0	
		195-4	0.02.0		Thiruvapur	Thiruvapur 18. Semangalam	223	0.05.0	
		193-2	0.04.0				222	0.01.5 G.P	
		195-2	0.01.0 G.P				225-2A	0.01.0	
		195-1C	0.01.0				225-2B	0.01.5	
		195-5B	0.03.0				226-1	0.02.0	
		197-7	0.03.5				226-2	0.01.0	
		197-8	0.01.0 G.P				226-3	0.04.0	
		211-4	0.04.0				226-4	0.03.5	
		211-5	0.01.0				228-1	0.03.0	
		210-6A	0.03.0				230-3	0.04.0	
		210-6B	0.01.5				26	0.01.5 G.P	
		210-6C	0.01.0				25-5	0.04.5	
		210-4	0.01.0				27-1	0.01.0	
		210-5	0.01.0				24-1	0.01.0 G.P	
		209-8A	0.00.5				24-3	0.01.5	
		209-8B	0.00.5				24-11B	0.02.0	
		209-9	0.02.0				24-12	0.02.0	
		209-7	0.02.0				23-2	0.01.0	
		Total	0.88.0				28-1	0.04.0	
Nagapattinam	Kilvelur 9. Kurumanangudy	188	0.01.0 G.P				15-Aug	0.01.5	
		178-1A	0.06.0				14-Aug	0.01.0	
		178-1B	0.01.5				16-B	0.01.0 G.P	
		177-4	0.04.0				252-1	0.02.5 G.P	
		177-3	0.01.0 G.P				Total	0.51.0	
		177-5	0.00.5 G.P		Nagapattinam	Kilvelur 8. Eravancheri	149-2B	0.00.5	
		177-6	0.01.0				149-3	0.02.0	
		177-7A	0.01.0				149-4	0.01.0	
		177-7B	0.01.0				149-5	0.01.0	
		175-8	0.01.0				149-6	0.01.0	
		174	0.00.5 G.P				149-8	0.01.0	
		159A-10	0.02.0				149-11	0.01.0	
		159A-11A	0.02.0				149-12	0.01.0	
		159A-11B	0.01.0				147-1	0.04.0	
		159A-2	0.01.0				147-2	0.02.0	
		148-4	0.06.5				149-13	0.01.0	
		148-3	0.01.0 G.P				149-7	0.01.5 G.P	
		148-2B	0.06.0				149-10	0.00.5 G.P	
		147-1D	0.04.5				147-3	0.02.5	
		147-1E1	0.01.0				146-1	0.02.5	
		145-3	0.02.5				146-2	0.03.0	
		145-2A	0.01.5				146-4	0.03.0	

1	2	3	4	5	1	2	3	4	5
Nagapattinam	Kilvelur 8. Eravancheri	66	0.02.0 G.P		Nagapattinam	Kilvelur	20. Anaiman- galam	245-1	0.04.5
		68-3	0.00.5					242-2	0.04.5
		195-3	0.03.0					247	0.23.5
		195-4A	0.02.0					249-1	0.01.0 G.P
		195-4B	0.01.0					249-2A	0.04.5
		196- 2	0.05.0					249-2B	0.12.5
		197-1	0.01.5					249-2D	0.00.5
		197-2A	0.02.5					249-2C	0.15.0
		197-2B	0.01.0					252-1	0.00.5 G.P
		197-3	0.02.0					252-2	0.00.5
		198-1	0.01.0 G.P					253-1	0.04.5
		198-2	0.02.5					253-2	0.03.5
		198-3	0.03.0					253- 3	0.12.5
		198-6	0.05.0					269-1	0.19.0
		67B	0.01.0 G.P					269-2	0.00.5
		68-1	0.04.0					271-1	0.00.5 G.P
		68-2	0.03.5					271-2	0.16.5
		1	0.29.5					271-3	0.11.0
			(18mtr. width)					272-5	0.03.0
		7-2A	0.21.5					272-11	0.14.5
			(18mtr. width)					272-6	0.01.0 G.P
		7-2B	0.10.0					272-12	0.01.0 G.P
			(18mtr. width)					267	0.06.0 G.P
		4-Jul	0.02.0 (18 mtr. width)					17D-1	0.01.0 G.P
		3-Jul	0.07.5 (18 mtr. width)					17D- 2	0.00.5
		1-Jul	0.01.0 G.P					17D-5	0.22.5 G.P
			(18 mtr. width)					231-1	0.00.5 G.P
		Total	1.40.5					231-2	0.00.5
Nagapattinam	Kilvelur 25. Agaraka- damba Noor	376-2	0.08.0		Nagapattinam	Kilvelur	2. Okkur	231-4	0.05.0
		376-1	0.01.0 G.P					232-1	0.20.0
		375-1	0.02.0					232-2	0.17.0
		375-2	0.02.0					232-3	0.06.0
		383	0.02.5					232-4	0.02.5
		295	0.05.0					Total	3.19.0
		294	0.07.5					126-1B	0.02.0
		293-1	0.02.0					126-2	0.00.5 G.P
		293-2	0.01.0 G.P					127-1	0.04.5
		Total	0.31.0					127-2	0.01.5
Nagapattinam	Kilvelur 25/3 Vadakurveli	323-1	0.01.0 G.P		112	0.05.0			
		323-2	0.08.0		111-2	0.03.0			
		324-1	0.06.0		110	0.09.0			
		325	0.07.0		107-2	0.00.5			
		318	0.01.0 G.P		108-1	0.00.5 G.P			
		316	0.14.0		108-2	0.00.5 G.P			
			(18mtr. width)		71-1	0.01.0			
		315	0.16.5		71-2	0.02.5			
			(18mtr. width)		71-3	0.02.0			
		314-1	0.04.0 G.P		71-4	0.00.5			
			(18 mtr. width)		74-1	0.04.5			
		314-2	0.01.0 G.P		73	0.03.0 G.P			
			(18 mtr. width)		75-2	0.00.5			
		Total	0.58.5		75-3	0.00.5 G.P			
Nagapattinam	Kilvelur 20. Anaiman- galam	94	0.08.5 G.P		76	0.06.5			
		96-2	0.42.0		78-1	0.00.5 G.P			
		245-2	0.24.5		78-2	0.00.5 G.P			
		244-1	0.03.0		78-3	0.00.5 G.P			
		244-2	0.05.0		81-1	0.01.5			
					81-2	0.00.5 G.P			
					82-2	0.06.5			
					20-1B	0.04.0			
					20-1C	0.01.5			

1	2	3	4	5	1	2	3	4	5
Nagapattinam	Kilvelur	2. Oidur	20-3A1	0.03.0	Nagapattinam	Kilvelur	3. Venkidangal	42	0.00.5 G.P
			20-2	0.00.5				40-4	0.00.5
			234	0.03.0 G.P				39	0.00.5 G.P
			220-4A	0.03.5				38-1A	0.03.0
			220-4B	0.05.0				38-1B	0.03.5
			220-4C	0.05.5				37	0.00.5 G.P
			209-2A	0.01.5				36-3	0.03.0
			209-2B	0.01.5				36-4	0.01.5
			218-2	0.06.0				36-5	0.01.5
			218-3A	0.02.0				34-2B	0.02.5
			221-2	0.06.0				34-2C	0.01.0
			221-4	0.01.0				34-3	0.00.5 G.P
			210-2	0.00.5				28-1A	0.03.0
			210-1	0.00.5 G.P				33-2A2	0.01.0
			216-1	0.02.0				33-2B1	0.04.0
			216-3	0.03.0				33-2B3	0.02.0
			216-2	0.02.5				33-2B2	0.01.5
			211-1	0.03.0				32-2B	0.04.0
			213	0.01.0				32-3	0.02.0
			212-3	0.02.5				32-9A	0.00.5
			212-4	0.02.0				32-5	0.00.5
			131	0.07.0				32-8	0.00.5
			132	0.05.5				32-10A	0.00.5
			129	0.01.0 G.P				32-11	0.00.5
			286-2	0.03.0 G.P				31-1	0.02.5
			286-10	0.01.0				31-2	0.05.5
			284-4	0.11.0				15-6	0.01.5
			278-1A	0.02.0				15-7	0.05.5
			278-3	0.03.5				25	0.01.0 G.P
			277-4	0.03.0				24-1	0.03.5
			277-5	0.12.0				16-2	0.01.5
			278-1B	0.02.0				16-3A	0.05.0
			278-4	0.05.5				16-3B	0.06.0
			278-5	0.03.5				2-7A	0.00.5
			278-6	0.02.0 G.P				2-7B	0.00.5
			277-2A	0.01.0				2-5	0.00.5
			277-2B	0.13.0				2-6	0.02.5
			277-3A	0.01.0				1	0.00.5 G.P
			276	0.03.0 G.P				Total	1.06.0
			255-1	0.16.0	Nagapatti-	Nagapatti-	122.Narima-	6-4	0.04.0
			255-2	0.01.0	nam	nam	nam	6-5	0.03.5
			255-4	0.05.5				5-1	0.01.0
			255-5	0.01.0				7-1	0.02.5
			255-3	0.10.0				2-4	0.03.5
			254-1	0.26.0				6-3	0.00.5
			253-1B	0.05.0				7-4A	0.00.5
			252-6A	0.02.5				84-2	0.01.0 G.P
			Total	2.65.5				2-1	0.00.5 G.P
Nagapattinam	Kilvelur	3. Venkidangal	110	0.01.0				4	0.01.0 G.P
			103-1B	0.01.0 G.P				Total	0.18.0
			103-2	0.00.5	Nagapatti-	Nagapatti-	50.Kuthalam	126-1A2	0.14.0 (18
			104-1	0.02.0	nam	nam			mtr. width)
			104-2	0.03.0				128-3B	0.01.0 (5 mtr.
			102	0.01.5 G.P					width)
			97-3	0.04.5				128-5	0.02.5 (5 mtr.
			95-1	0.01.0					width)
			96-1	0.02.5				128-4	0.03.0 (5 mtr.
			96-3	0.05.5					width)
			96-2	0.00.5 G.P				128-1	0.01.0 G.P (5
			94	0.01.0 G.P					mtr. width)
			93-1	0.04.5				Total	0.21.5
			93-2A	0.01.0					
			77-1	0.00.5 G.P					
			73-1	0.02.0					

[P. No. L-14014/23/09-G.P.]
K. K. SHARMA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 7 जुलाई, 2009

का.आ. 2106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक, नई दिल्ली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, नई दिल्ली के पंचाट (संदर्भ संख्या 60/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-7-2009 को प्राप्त हुआ था।

[सं. एल-12011/08/2007-आईआर (बी-11)]

राजेन्द्र कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 7th July, 2009

S.O. 2106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.60/2007) of the Central Government Industrial Tribunal/Labour Court No-I, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab & Sind Bank, New Delhi and their workman, which was received by the Central Government on 07-07-2009.

[No. L-12011/08/2007-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE DR. R.K. YADAV PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT NO. I NEW
DELHI KARKARDOOMA COURT COMPLEX,
DELHI**

I.D. No. 60/2007

Shri Anil Kumar Chandok,
Through the General Secretary,
Punjab & Sind Bank Staff Union,
E-6, Cannaught Place,
New Delhi

....Workman

Versus

The Branch Manager,
Punjab & Sind Bank,
Janakpuri Locker Branch,
New Delhi.

....Management

AWARD

Shri Anil Kumar Chandok was working as Head Cashier at Locker Branch Janakpuri of Punjab & Sind Bank in July, 2002. He was performing the duties of holding bank cash, keys and /or other valuables in safe custody, jointly with an officer and was accountatble for

them and responsible for the running of the cash of the branch. He was paid special allowance for those duties @ Rs. 351/- PM. He was designated as Head Cashier-I cum Clerk. At one point of time, allowances paid to Head Cashier 'C' was paid to him due to inadvertence. When mistake came to the notice of the authorities the said allowance was stopped. Feeling aggrieved, Anil Kumar Chandok, raised a demand before his superiors, which demand was declined.

2. He raised a dispute before the conciliation officer, who entered into the conciliation proceedings. Since conciliation proceedings failed, the Central Government, Ministry of Labour vide order No. L-12011/8/2007-IB(B11) dated New Delhi 19th of July, 2007, referred the dispute for adjudication to this Tribunal with the following terms :—

“Whether the stoppage of giving cashier ‘C’ allowance to Shri Anil Kumar Chandok, Cashier w.e.f. August, 2005 is just, fair and legel ? If not, to what relief the workman is entitled to and from which date ?”

3. Claim statement was filed by the workman pleading therein that he was working as Head Cashier Category A at Locker Branch, Janakpuri of Punjab & Sind Bank since 2-7-2002. He was performing duties of Head Cashier Category ‘C’ since that date till August, 2005. He was paid allowance for the position of Head Cashier Category ‘C’ till August, 2005. He projects that in Metropolitan City Branches of the Bank having single Cashier performing the duties of both receipts and payment and no Teller working in that branch, the cashier would be entitled to the allowance for the post of Head Cashier category ‘C’, in terms of staff circular No. 1941 dated 17-8-1989. He was performing the duties of receipt as well as payment Cashier, hence entitled for allowances for Head Cashier category ‘C’ position. Action of the management for not paying allowances for the position of Head Cashier category ‘C’ is unjust, unfair and illegal. He claims that reference may be answered in his favour.

4. Contest was given to the claim by the management pleading thereing that the workman was posted as Head Cashier category ‘A’ cum Clerk at the aforesaid branch. Vide letter dated 2nd of July, 2002, which was accepted by him vide his communication dated 9-7-2002, he was entitled to special allowance of Rs. 351 P.M. No other allowance was admissible to him. The said special allowance is a performance based allowance and not attached to the post. Duties of Head Cashier category ‘A’ are to hold banks cash, keys and/or other valuables in safe custody, jointly with an officer and to be accountable for them and responsible for running of the cash of the branch. Besides duties referred above a Head Cashier Category ‘C’ counter-

signs cheques and/or drafts, (on selves or correspondents) payment orders and deposit receipts etc. The workman was not performing duties, duty of Head Cashier Category 'C', at any point of time. Inadvertently he was drawing special allowance for the position of Head Cashier Category 'C', which was stopped. Position of Head Cashier Category 'C' was not available at locker branch, Janak Puri of the Bank. Since the workman was not entitled to the allowance for the post of Head Cashier Category 'C', no dispute much less an industrial dispute has arisen. It was claimed that the reference may be answered accordingly.

5. On 13-10-1988 a letter was sent, duly signed by the workman and Shri R.K. Sharma, General Secretary of Punjab & Sind Bank Union detailing therein that neither the workman nor the Union is interested in pursuing the industrial dispute. It was claimed that the said dispute may be dismissed as withdrawn. The said request was declined by the Tribunal vide its order dated 20-5-2009, announcing that an industrial dispute, referred by the appropriate Government, is to be answered and neither of the party has a right to withdraw a dispute.

6. Workman opted not to prosecute his grievances. On the other hand, the management painted a picture that there was no position of Head Cashier Category 'C' at locker branch, Janak Puri of the Bank. It was also agitated that duties performed by the workman were of the position of Head Cashier Category 'A'. He was never entrusted with the duties of counter signing cheques or drafts, payment orders or deposit receipts, the duties attached to the position of Head Cashier Category 'C'. The management projects that inadvertently Anil Kumar Chandok was drawing allowance for the position of Head Cashier Category 'C'. When that fact came to light the allowance was withdrawn. This proposition is neither disputed nor contested on behalf of the workman. Consequently, it emerges that workman never performed duties of Head Cashier Category 'C'. Hence he was not entitled for allowance for the said position. Management was justified in stopping allowance for the position of Head Cashier Category 'C' to the workman in August, 2005. The reference is answered in favour of the management.

7. When there was no justifiability in favour of the workman to draw allowance for the position of Head Cashier Category 'C', he is not entitled for any relief. Issues referred in the terms of reference are answered accordingly. It be sent to the appropriate Government for publication.

Dated : 1-7-2009

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.अ. 2107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने बी.सी.सी. एल. के प्रबंधन के संघट्ट निरीक्षकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथ न्यायालय संख्या-1, धनबाद के पंचाट (संख्या संख्या 100/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल-20012/435/99-आईएम (सी-1)]

नये सहायक, केन्द्रीय अधिकारी

New Delhi, the 8th July, 2009

S.O. 2107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.100/2000) of the Central Government Industrial Tribunal/Labour Court No-I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-07-2009.

[No. L-20012/435/99-IR (C-I)]

SNEHLATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
(NO.1), DHANBAD

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 100 of 2000

Parties : Employers in relation to the management of Koyala Bhawan of M/s. BCCL

And

Their Workmen

Present : Sri H.M. Singh, Presiding Officer.

Appearances :

For the Employers : Sri D.K. Verma, Adv.

For the Workmen : None.

State : Jharkhand Industry : Coal

Dated, the 19th June, 2009

AWARD

By Order No. L-20012/435/99-CI, dated 3-2-2000 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

अनुसूची

“भारत कोकिंग कोल लि. के प्रबंधन द्वारा कर्मचारी श्री पी. नी. सहाय को एस.ए.आई.एल की सेवा शर्तों को न देकर दबाव डालने सी.आई.एन. की सेवा शर्तों को स्वीकार कर लें एवं वार्षिक वेतन वृद्धि के साथ अन्य सुविधाएं न देने की कार्यवाही संवैधानिक एवं न्यायिक दृष्टि सही/उचित है अथवा नहीं ? यदि हां तो कर्मचारी किन लाभों के हकदार हैं तथा किस तारीख से ?”

2. This reference case is pending since 23-2-2000 Thereafter notices were sent to the sponsoring union but it was returned undelivered.

From the record it appears that this case is pending for the last 9 years for filing of written statement by the workmen. But no step has been taken as yet by the workmen/sponsoring union till 1-6-09. The workmen are not interested in contesting the case. Hence, I render a No Dispute Award. in the present case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

क्र.आ. 2108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 77/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-20012/342/99-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 77/2000) of the Central Government Industrial Tribunal/Labour Court No.-I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-7-2009.

[No. L-20012/342/99-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR COURT
(NO. 1), DHANBAD.**

In the matter of a reference under section 10(1)(d)& (2A) of the Industrial Disputes Act, 1947

Reference No. 77 of 2000

Parties : Employers in relation to the management of Putkee Bahihari Area of M/s. BCCL

And

Their Workmen

Present : Sri H.M. Singh, Presiding Officer

APPEARANCES :

For the Employers : None

For the Workmen : None

State : Jharkhand : Industry : Coal

Dated, the 30th June, 2009

AWARD

By Order No. L-20012/342/99-IR (C-I), dated the 28-1-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clauses (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

“Whether the refusal of the management of Putkee Colliery under P.B. Area of M/s. BCCL to regularise Sri Pandeshwar Singh, General Mazdoor as attendance clerk is proper and justified? If not, to what relief the workman is entitled?”

2. This case is pending since 9-2-2000 for filing of written statement by the workmen. But till 1-6-09 no written statement has been filed by the workmen, in spite of notices were sent to both the parties concerned. Hence, it appears that the workmen are not interested in contesting the case, in such circumstance, I render a No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

क्र.आ. 2109.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 340/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-20012/333/2000-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 340/2000) of the Central Government Industrial Tribunal/Labour Court No.1, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-7-2009.

[No. L-20012/333/2000-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 340 of 2000

Parties : Employers in relation to the management of Putkee Balihari Area of M/s. BCCL

And Their Workman

Present : Sri H.M. Singh, Presiding Officer.

APPEARANCES

For the Employers : None

For the Workman : None

State : Jharkhand Industry : Coal

Dated, 25th June, 2009

AWARD

By Order No. L-20012/333/2000 (C-I), dated, 29-11-2000 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal.

"Whether the demand of the Janata Mazdoor Sangh to regularise Sri Dwarika Dhobi, Prop. Mazdoor as Security Guard w.e.f. 29-9-89 with consequential benefits is proper and justified? If so, to what relief is the concerned workman entitled?"

2. This case was pending for filling of Written statement by the workman. Thereafter, notices were sent to both the parties for filing of written statement. But till 8-6-09 no written statement was filed by the concerned workman.

Hence, it appears that the concerned workmen is not interest to contest the case.

Under the circumstances, I render a No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 126/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-20012/451/99-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 126/2000) of the Central Government Industrial Tribunal/Labour Court No-1, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 08-07-2009.

[No. L-20012/451/99-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 126 of 2000

Parties: Employers in relation to the management of Eastern Zone Area of M/s. BCCL

And Their Workman

Present : Sri H.M. Singh, Presiding Officer.

APPEARANCES

For the Employers : None

For the Workman : None

State : Jharkhand Industry : Coal

Dated, 25th June, 2009

AWARD

By Order No. L-20012/451/99 (C-I), dated, 23-2-2000 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947; referred the following dispute for adjudication to this Tribunal.

"Whether the demand of the union for employment or Sri Ganesh Hari being the dependent son of late Shiv Shanker Hari under para 9.4.2 of the N.C.W.A. from the management of Bhowra (S) Colliery of M/s. BCCL is justified? If so, to what relief Sri Ganesh Hari is entitled?"

This case is pending since 1-3-2000 for filing of Written statement by the workman. But Written Statement has not been filed by the workman concerned till 1-6-09, inspite of notices were sent to both the parties concerned.

It appears that the concerned workman is not interested in contesting the present reference case.

Hence, I render a No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2111.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-I, धनबाद के पंचाट (संदर्भ संख्या 66/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-20012/314/1999-आईआर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 66/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-7-2009.

[No. L-20012/314/1999-IR (C-I)]

SNEHLATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 1, DHANBAD**

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 66 of 2000

Parties : Employers in relation to the management of Western Jharia Area of M/s. BCCL

And

Their Workmen

Present : Sri H. M. Singh, Presiding Officer.

APPEARANCES

For the Employers : Sri D. K. Verma, Adv.

For the Workmen : None.

State : Jharkhand Industry : Coal

Dated, 26th June, 2009

AWARD

By Order No. L-20012/314/99 (C-I), dated 28-1-2000 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal.

"Whether the action of the management for the pre-mature retirement of Shri Tilakdhari Napit w.e.f.

1-7-97 is legal and justified? If not, to what relief the concerned workman is entitled.

2. This case is pending for filing of written Statement by the workmen since 9-2-2000. Thereafter, notices was sent to both the parties for filing of Written Statement. But the Written Statement was not filed by the workmen/sponsoring union till 1-6-09. Hence, it appears that the workmen/sponsoring union is not interested in contesting the above mentioned reference.

Therefore, in such circumstances, I render No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-I, धनबाद के पंचाट (संदर्भ संख्या 115/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-20012/464/1999-आईआर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 115/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 08-07-2009.

[No. L-20012/464/1999-IR (C-I)]

SNEHLATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 1, DHANBAD**

In the matter of a reference under Section 10(1)(d) & (2A) of Industrial Disputes Act, 1947.

Reference No. 115 of 2000

Parties : Employers in relation to the management of Govindpur Area of M/s. BCCL

And

Their Workman

Present : Sri H. M. Singh, Presiding Officer.

APPEARANCES

For the Employers :
 For the Workman :
 State : Jharkhand Industry : Coal

Dated, the 29th June, 2009

AWARD

By Order No.L-20012/464/99-IR (C-I), dated, 18-2-2000 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal.

"Whether the action of the management of M/s. BCCL, Govindpur Area III in not regularising Shri Rangnath Sharma as E.P. Electrician w.e.f. 1-9-90 is justified? If not, to what relief is the concerned workman is entitled."

This case is pending since 28-2-2000, for filing of Written statement by the workman. But no action has since been taken by the workman concerned till 1-6-09, inspite of notices sent to both the parties concerned.

It appears that the workman concerned is not interested in contested the above mentioned reference case.

Hence, I render a No Disput Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 247/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-20012/245/2001-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2113.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 247/2001) of the Central Government Industrial Tribunal/Labour Court No-I, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 8-7-2009.

[No. L-20012/245/2001-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of a reference under Section 10(1)(d) & (2A) of Industrial Disputes Act, 1947:

Reference No. 247/2001

Parties : Employers in relation to the management of Govindpur Area of M/s. BCCL

And

Their Workman

Present : Sri H. M. Singh, Presiding Officer.

APPEARANCES :

For the Employers : Sri D. K. Verma, Adv.
 For the Workmen : Sri N.G. Arun, Rep.
 State : Jharkhand Industry : Coal

Dated, the 24th June, 2009

AWARD

By Order No.L-20012/245/2001-IR (C-I), dated, 23-11-2001 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication. to this Tribunal.

अनुसूची

"क्या राष्ट्रीय कोयला मजदूर संघ की भारत कोकिंग कोल लिमिटेड गोविंदपुर क्षेत्र-3 के प्रबंधतंत्र से मांग कि श्री किसन मोहन राय माइनर लोडर को ट्रांसपोर्टिंग कर्लक के पद पर नियमित किया जाए उचित एवं न्यायसंगत है? यदि हां तो कर्मकार किस राहत के पात्र हैं तथा किस तारीख से?"

2. The order of reference has been received in this Tribunal on 6-12-2001.

Thereafter, notices were sent to the parties for filing of Written Statement and rejoinder. The parties have filed their Written Statement and rejoinder. They have also adduced evidence.

On 1-6-09 Sri Krishna Mohan Roy, the concerned workman filed a petition from which it appears that the case is going to be settled with the management.

Thereafter, in view of such submission I pass a No Disput Award in the present case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 268/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-20012/114/2000-आई. आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2114.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 268/2000) of the Central Government Industrial Tribunal/Labour Court No-I, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 8-7-2009.

[No. L-20012/114/2000-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 268 of 2000

Parties : Employers in relation to the management of Pootkee Balihari Area of M/s. BCCL

And

Their Workman

Present : Sri H.M. Singh, Presiding Officer.

APPEARANCES

For the Employers : none

For the Workman : None

State : Jharkhand Industry : Coal

Dated, the 30th June, 2009

AWARD

By Order No. L-20012/114/2000-IR (C-I), dated, 14-9-2000 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) and Sub-section (2A) of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the Demand of the Union to give Technical Grade ‘D’ scale to Sri Gopi Munda effective from 14-4-84 and to subsequently, promote him in Technical Grade ‘C’ along with others is proper and justified ? If so, to what relief is the concerned workman entitled”

This case is pending since 25-9-2000 for filing of Written Statement by the workman. But no Written

Statement has been filed so far by the workman concerned, inspite of the notices were sent to both the parties for filing of written statement.

It appears that the workman concerned is not interested in contesting the present reference case.

Hence, I render a no dispute award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

क्र.आ. 2115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. स्पाई जेट लि0 के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, नई दिल्ली के पंचाट (संदर्भ संख्या 49/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल-11012/27/2006-आई. आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2115.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 49/2006) of the Central Government Industrial Tribunal/Labour Court No-I, New Delhi now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. Spicejet Ltd. and their workman, which was received by the Central Government on 8-7-2009.

[No. L-11012/27/2006-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE DR. R.K. YADAV PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1 NEW DELHI KARKARDOOMA COURT COMPLEX, DELHI

I.D. No. 49/2006

Shri Suresh Kumar S/o Shri Hukami Singh,
C/o Piyare Lal Srivastava,
Bhartiya Mazdoor Union (Regd.),
CB-28 Ring Road, Naraina,
New Delhi-110028.

.....Workman

Versus

Spicejet Ltd.,
Cargo Complex, IGI Airport Terminal—I,
New Delhi-37.

.....Management

AWARD

Shri Suresh Kumar was working in Modiluft Ltd., which became scheduled Air Transport Service on 20-11-94, when air transport service permit was issued to it by Director General of Civil Aviation. It was functioning with the support of technical know-how being provided by M/s Lufthansa. In the year 1996 agreement between Modiluft Ltd. and M/s Lufthansa was terminated and Director General of Civil Aviation did not renew its permit to operate scheduled air transport service after 19-11-96. Till 23-5-05 airline operations of Modiluft Ltd. were not in existence. On account of ceasure of airline operations, services of Shri Suresh Kumar came to an end.

2. An industrial dispute was raised by Suresh Kumar before the Conciliation Officer. Conciliation proceedings failed. Appropriate Government vide its Order No. L-11012/27/2006-IR(CM-I) dated 28-8-2006 has referred the dispute to this Tribunal for adjudication with following terms of reference :

“Whether the action of the Management of Modiluft/Royal Airways/Spicejet Ltd., in terminating the services of Sh. suresh Kumar S/o Shri Hukami Singh w.e.f. 1-11-02 is just, fair and legal ? If not, to what relief is the concerned workman entitled and from which date ?”

3. Shri Suresh Kumar was instructed by the appropriate Government to file a claim statement, with relevant documents, before this tribunal within 15 days from the receipt of reference order. The aforesaid reference was made by the appropriate Government on 28-8-06. The workman opted not to file a claim statement before this Tribunal, in pursuance of the directions given by the appropriate Government.

4. when claim statement was not filed by the workman, in pursuance of directions issued by the appropriate Government, notice was sent to him for filing claim statement. On 21-11-06 Shri Ravinder Singh appeared on behalf of the workman and sought time to file claim statement. Matter was adjourned to 25-1-07. Thereafter several opportunities were given, but claim statement was not filed. From 28th January, 2008 till April, 2009, there was no Presiding Officer in the Tribunal.

5. A registered notice was sent for 30-6-09 to file claim statement. It was to be served on the workman through Shri P. L. Srivastava, r/o CB 280 Ring Road, Naraina, New Delhi, which address was provided by the appropriate Government in the order of reference. On this very address notice was sent. It was received back with the report that no such person with the name of Shri Suresh Kumar S/o shri Hukami Singh was residing at the given address. Consequently it became evident that the workman has left the given address for good.

He opted not to inform this Tribunal about change of his residential address. Under these circumstances claim statement could not reach this Tribunal, from the workman.

6. The management filed its reply to the term of reference pleading that when airline operations came to an end on 19-11-96, workman ceased to be in the employment of Modiluft Ltd. Airline business was not done by the management till 23-5-05, the date when airline operations commenced again. It has been claimed that since the company was in operative between 96 to May, 2005, there was no question of employing/terminating the services of the workman in the year 2001-2002. Airline operations were relaunched by the company with the name of the Spice Jet Limited on 23-5-05, after issue of new permit by the Director General, Civil Aviation on 17-5-05 Spice Jet Limited came into existence w.e.f. 23-5-2005, consequent to the change in the name of the management. It has been projected that under these circumstances, there is no substance in the proposition that services of Shri Suresh Kumar were dispensed with w.e.f. 1-1-2002. Since services of Shri Suresh Kumar came to an end on 19-11-96, when permit to operate scheduled air transport service was not renewed by the Director General Civil Aviation, in that situation it cannot be said that his services were dispensed with on 1-1-2002. To substantiate their stand, the management filed copy of permit dated 20-11-94, its renewal dated 17-11-95, copy of resolution dated 28-2-2001, photo copy of news item appearing in Economic Times issue dated 3-1-2001, photo copy of permit to operate Scheduled Air Transport Services (Passenger) dated 9-5-06, copy of news letter of Spice Jet and copy of fresh certificate of incorporation, consequent upon change of name, Documents referred above, lands support to the facts pleaded by the management.

7. As the workman opted not to file claim statement and management projected that his services came to an end on 19-11-96 when permit to operate Scheduled Air Transport Service was not renewed by the Director General, Civil Aviation, it came to light that the reference made by the appropriate Government was mechanical, without application of any mind. Justifiability lies in the action of the management in dispensing with the services of Suresh Kumar on 19-11-96, on account of non renewal of permit to operate Scheduled Air Transport Services. Under these circumstances the workman is not entitled to any relief. The reference is answered accordingly. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

Dated : 30-6-09.

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी.सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 317/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल. 20012/283/2000-आई. आर.(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 317/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the annexure in Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 8-7-2009.

[No. L. 20012/283/2000-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, DHANBAD

In the matter of a reference U/s. 10(1) (d) and (2A) of Industrial Dispute Act, 1947.

Reference No. 317/2000

Parties : Employers in relation to the management of Pootaki Belihari area of M/s. B.C.C.L.

AND

Their workman

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers	:	None
For the Workmen	:	None
State : Jharkhand		Industry : Coal

Dated, the 26th June, 2009

AWARD

By Order No. L. 20012/283/2000-(C-I) dated 23-10-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

"Whether the dismissal of Shri Bhihari Bhuiya Minor loader by the management w.e.f. 9-12-96 is proper, legal and justified? If not, to what relief is the workman entitled?"

2. This case is pending since 21-11-2000 for failing of writing statement by the workman, but it was not filed till 8-6-2009.

It appears that the workman is not interested in contesting the above reference scene.

In the circumstance, I render a No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी.सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 269/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल. 20012/116/2000-आई. आर.(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2117.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 269/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the annexure in Industrial Dispute between the employers in relation to the management of M/s. B.C.C. Ltd. and their workman, which was received by the Central Government on 8-7-2009.

[No. L. 20012/116/2000-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference U/s. 10(1) (d) and (2A) of Industrial Dispute Act, 1947.

Reference No. 269/2000

Parties :—Employers in relation to the management of Pootaki Belihari area of M/s. B.C.C.L.

AND

Their workman

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers	:	None
For the Workmen	:	None
State : Jharkhand		Industry : Coal.

Dated, the 24th June, 2009

AWARD

By Order No.L-20012/116/2000-(C-I), dated 14-9-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the refusal of the management to regularise, Smt. Indrawati Devi as Clay Cartridge Maker is proper and justified? If not, to what relief is the concerned workman entitled and from what date?"

2. The case is registered in this Tribunal on 25-9-2000. And the case was fixed for filing of written statement by the workman. Accordingly, notice was sent to both the parties for filing of written Statement. But in spite of the notice sent to the parties no written statement was filed till 8-6-2009.

It appears that the workman concerned is not interested in contesting the present reference case.

In the circumstances, I render a NO DISPUTE AWARD in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 101/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल. 20012/437/99-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 101/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the annexure in Industrial Dispute between the employers in relation to the management of M/s. B.C.C. L. and their workman, which was received by the Central Government on 8-7-2009.

[No. L. 20012/437/99-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, DHANBAD

In the matter of reference U/s. 10(1) (d) (2A) of I. D. Act.

Reference No. 101/2000

Parties : Employers in relation to the management of M/s. B.C.C.L.

AND**Their workmen**

Present : Shri H.M. Singh, Presiding Officer.

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate

For the Workmen : None

State : Jharkhand Industry : Coal

Dated, the 18th June, 2009

AWARD

By Order No. L. 20012/437/99-(C-I) dated 3-2-2000 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

अनुसूची

"क्या होरिलाडीह खदान भालगोर क्षेत्र, भारत कोकिंग कोल लि., के प्रबंधन द्वारा कर्मचारी श्री सीता राम पासवान लोडर से सुरक्षा गार्ड का पद नाम न देना एवं कर्मचारी द्वारा सुरक्षा गार्ड के कार्य को न करने पर उसे सुरक्षा गार्ड का वेतन न देना संवैधानिक दृष्टि से न्याय संगत उचित एवं सही है? अथवा नहीं? यदि नहीं तो कर्मचारी किस लाभ के हकदार हैं तथा किस तारीख से?"

This case is pending since 23-2-2000 for filing of written statement by the workman. But even 1-6-2009 no such step has been taken by the workman/sponsoring union. It means that workman is not interested to contest the case.

In view of such circumstances I Pass "No dispute" Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2119.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 298/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल. 20012/252/2000-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2119.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 298/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the annexure in the Industrial Dispute between the employers in relation to the management of M/s. B.C.C. L. and their workman, which was received by the Central Government on 8-7-2009.

[No. L. 20012/252/2000-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of a reference U/s. 10(1) (d) & (2A) of
Industrial Disputes Act, 1947.

Reference No. 298 of 2000

Parties : Employers in relation to the management of
Khas Kusunda Colliery of M/s. B.C.C.L.

AND

Their workman

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : None
For the Workmen : None
State : Jharkhand Industry : Coal.

Dated, the 22nd June, 2009

AWARD

By Order No. L. 20012/252/2000-(C-I) dated 29-9-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Khas Kusunda Colliery of M/s. BCCL in dismissing the services of Sri Tura Munda is fair and justified? If not, to what relief is the concerned workman entitled.”

2. This reference case is pending for filing of written statement by the workman since 9-10-2000. Thereafter notices were sent to both parties concerned, but inspite of the notices issued to the workman concerned, the workman has not filed the written statement till 8-6-2009

It appears that the workman is not interested in contesting the above mentioned reference case.

In the circumsatance, I render No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2120.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में. बी.सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 59/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल. 20012/296/99-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2120.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 59/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the annexure in Industrial Dispute between the employers in relation to the management of M/s. B.C.C. L. and their workman, which was received by the Central Government on 8-7-2009.

[No. L. 20012/296/99-IR(C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD**

In the matter of a reference U/s. 10(1) (d) & (2A) of
I. D. Act.

Reference No. 59 of 2000

Parties : Employers in relation to the management of
Sudamdih Shaft Mine M/s. B.C.C.L.

AND

Their workmen

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : None
For the Workman : None
State : Jharkhand Industry : Coal.

Dated, the 29th June, 2009

AWARD

By Order No. L. 20012/96/99-(C-I) dated 21-1-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

“Whether the demand of the Union for employment of Sh. Raju Hari claiming to be son-in-law of late Sh. Sanu Hari, from the management of Sudamdih Shaft Mine. BCCL is justified? If so, to what relief the claimant is entitled ?”

2. The order of reference was received in this Tribunal on 1-2-2000. Inspite of sending notice to the parties by speed post no written statement was filed on behalf of the workman till 1-6-2009.

It, therefore, appears that neither the concerned workman nor the sponsoring union is interested to contest the case.

In such circumstances I render a “No Dispute” Award in the present case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2121.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, टिस्को के प्रबंधन के संबद्ध नियोज्जकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 322/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल-20012/275/2000-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2121.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 322/2000) of the Central Government Industrial Tribunal/Labour Court No.-I, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. TISCO and their workman, which was received by the Central Government on 08-07-2009.

[No. L-20012/275/2000-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference U/s. 10 (1)(d) & (2A) of I.D. Act. 1947.

Reference No. 322 of 2000

Parties : Employers in relation to the management of
6 & 7 Pits Calliery of M/s. TISCO.

AND

Their Workmen

Present : Shri H. B. Singh, Presiding Officer

APPEARANCES

For the Employers : None

For the Workmen : None

State : Jharkhand. : Industry : Coal

Dated, the 2nd June, 2009.

AWARD

By Order No. L-20012/275/2000 (C-I) dated 25-10-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section : (1) and sub-sec. (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"1. क्या टिस्को 6 एन्ड 7 पिट्स कोलियरी के प्रबंधन द्वारा श्री छोटे लाल (11) की विधवा श्रीमती जोरा देवी की

नियुक्ति न दिया जागी किसी द्विपक्षीय समझौते के अंतर्गत तय भती नीति के अनुरूप है ?

2. क्या कोलियरी कर्मचारी संघ यह विवाद उठाने के लिए सक्षम है? तथा क्या उनकी मांग न्यायोचित है? इस संबंध में क्या निर्देश आवश्यक है?"

2. 3-6-2009 was the date fixed for filing of written statement by the management but no written statement was filed. It appears from the record that this case is pending since 21-11-2000 for filing of written statement by the workman. It seems that neither the sponsoring union nor the concerned workman is interested to contest the present case.

Accordingly, I render 'No Dispute' Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2122.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, बी.सी.सी. एल. के प्रबंधन के संबद्ध नियोज्जकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 89/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल-20012/363/99-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2122.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 89/2000) of the Central Government Industrial Tribunal/Labour Court No.-I, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 08-07-2009.

[No. L-20012/363/99-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference under section 10 (1)(d) & (2A) of the Industrial Disputes Act, 1947.

Reference No. 89 of 2000

Parties : Employers in relation to the management of
Bhowra, O.C.P. of M/s. BCCL

AND

Their Workmen.

Present : Shri H. M. Singh, Presiding Officer

APPEARANCES

For the Employers : None
 For the Workmen : None
 State : Jharkhand. : Industry : Coal

Dated, the 29th June, 2009.

AWARD

By Order No. L-20012/363/99-IR (C-I) dated 2-2-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section : (1) and sub-sec. (2A) of Section 10 of Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Bhowra O.C.P. of M/s. BCCL in not allowing the national seniority to Sri Murli Nandan, E.P. Fitter, Excavation Cat. ‘D’ Exec. in grade ‘E’ w.e.f. 6-6-96 and non-payment of difference of wages for working in higher Cat. is justified? If not, to what relief the workmen is entitled?”

2. That the present reference is pending since 23-2-2000. Thereafter notices were sent to both the parties for filing of Written statement. But till 1-6-09 no written statement is filed by the workman concerned.

It appears that the concerned workman is not interested in contesting the present reference case.

Hence, I render a No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2123.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 280/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल-20012/168/2000-आई.आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 280/2000) of the Central Government Industrial Tribunal/Labour Court No.-I, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 08-07-2009.

[No. L-20012/168/2000-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL No. 1, DHANBAD.**

In the matter of a reference under section 10 (1)(d) & (2A) of I. D. Act. 1947

Reference No. 280 of 2000

Parties : Employers in relation to the management of Kusunda Area of M/s. BCCL.

AND

Their Workmen

Present : Shri H. M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shri D.K. Verma,
 Advocate

For the Workmen : Shri R.R. Ram, Advocate

State : Jharkhand. : Industry : Coal

Dated, the 1st July, 2009.

AWARD

By Order No. L-20012/168/2000 (C-I) dated 18-9-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Kusunda Area of M/s. BCCL in dismissing Sri Lal Chand Gope from the services of the company w.e.f. 1/2-11-94 is justified? If not, to what relief is the concerned workman entitled?”

2. The workman has filed written statement stating that he was working as Night Guard at Kusunda Area of M/s. BCCL from 1978 and was a permanent employee of the company. He was served with a charge-sheet No. A. 6/P-4/94/470 dated 17-2-1994. He submitted his reply in time denying the charges levelled against him under Clause 26-1-11 and 26-1-15 of the standing Orders. An enquiry was constituted and charges were enquired into by Sri M.K. Singh, Personnel Manager. The Enquiry Officer held enquiry on three days i.e. 23-3-94, 24-4-94 and concluded the enquiry on 25-4-94. The alleged story of theft was levelled against the concerned workman that on 16-2-94 at about 8.30 A.M. Lal Chand Gope was caught by the CISF personnel in Industry Colliery with armoured cable and its joint box. An FIR was lodged by the post Comandant, Sri Nand Kumar on the same day i.e. 16-2-94 with Jharia P.S., the concerned workman was sent to the Police custody. The police took up this case under G.R. No. 575/94/T.R. No. 138 State Vrs. Lal Chand Gope under Sec. 379 & 411 of the Indian Penal Code. In the domestic enquiry the concerned workman was not allowed to take any co-worker to defend his case before the Enquiry Officer. Only one constable, namely, Awatar Singh of Industry Colliery Camp, who lodged the FIR against the concerned workman, was examined in the enquiry proceeding. It was alleged by Sri Singh that some CISF Jawan had informed him that the piece of cable with the Joint box had been stolen from the colliery. The question

arises here at this point of time that D.R. Palit having some link he reported to another constable, namely, Sri Awatar Singh, Sri Palit was also examined in the enquiry but he did not say in the enquiry that he has seen Sri Gope taking the cable and the joint box from the Industry "Colliery rather he supported the statement of Sri Awatar Singh and Sri Gope was caught red handed with the cable and joint box while the same was taken to the residence of Sri Gope. Sri H.S. AIRI, Area Security Officer also stated the same as it is incorporated in the Enquiry Report of Sri. M.K. Singh adding that Sri Lalchand Gope was drunkard and he was in drinking and his association was with the criminals and anti-social elements, were well known to all. But this point Sri Airi could not substantiate with evidence against the concerned workman rather he tried to vitiate the enquiry by giving his impression which was not the question of the enquiry. He attempted to make the mind of the Enquiry Officer biased and he succeeded in it. The Enquiry Officer has also written in his report that the post commandant has also given his statement which was recorded by him and gone against the concerned workman. The concerned workman also produced one witness, namely, Ashok Heri who stated that the constable who reported against Sri Gope was having animosity against Sri Gope. But the Enquiry Officer did not take any cognizance of his statement. The Enquiry Officer in his findings of the enquiry has submitted that written documents were submitted by the management against the misconduct. None of those documents can be taken as documents supportive of the charges of misconduct alleged against the concerned workman. The Enquiry Officer has exonerated the concerned workman of the charges levelled against him vide clause 26.1.15 of the Certified Standing Orders of the company which reads "causing wilful damage to work in progress or to the property of the employer" and thus the Enquiry Officer has himself found that no material which come under the definition of property like cable and joint box has been taken by Sri Gope which would have caused damage to work in progress if it would have been taken as alleged against him.

The Trial Court has exonerated the concerned workman as the learned Judicial Magistrate, Sri R. Tiwari, delivered his judgement on 25-2-1999 acquitting from the charges to Sri Lalchand Gope, the concerned workman, The Hon'ble High Court, Madras has clearly mentioned that the decision of the Criminal Court will be binding by spelling out that "findings and orders of the Criminal Court should be treated a conclusive in the proceedings before quasi-judicial Tribunals. The Hon'ble Supreme Court also in the case of Delhi Cloth & General Mills Ltd. Vs. Kasal Bhan has corroborated the judgement.

It has been prayed that the Hon'ble Tribunal be pleased to order reinstatement of the concerned workman with full back wages with continuity of service.

3. Written Statement has been filed by the management stating that the concerned workman was working as Night Guard at Kusunda Area and he committed the misconduct of theft, fraud and dishonesty in connection with company's business and property on 16-2-94. On

16-2-94 at about 8.30 a.m. he was caught redhanded by the CISF personnel within the premises of Industry Colliery while he was stealing-away one piece of armoured cable alongwith its joint box of the colliery. He was handed over to the Police on 16-2-94 by the Post Commandant after lodging FIR and the concerned workman was put in jail custody till he was released on bail. The management issued a chargesheet dated 17-2-94 under clauses 26.1.11 and 26.1.15 of the Certified Standing Order to which the concerned workman submitted his reply on 8-3-94 denying the allegation levelled against him. The management by order dated 16-3-94 appointed Sri M.K. Singh, Personnel Manager of the area as Enquiry Officer and Sri H.S. Airy, Area Security Officer as management representative in the departmental enquiry relating to the chargesheet. The departmental enquiry was held by the Enquiry Officer in presence of the chargesheeted workman who was given full opportunity to cross-examine the management witnesses, to give his own statement and to produce his defence witnesses. The departmental enquiry was held fairly and properly in accordance with the principles of natural justice. The concerned workman did not raise any objection against the Enquiry Officer or the Presenting Officer or the procedure of enquiry followed by the Enquiry Officer. The Enquiry Officer after holding the departmental enquiry in conformity with the principles of natural justice submitted his enquiry report dated 2-7-94 holding the concerned workman guilty of the charges levelled against him. The disciplinary authority after considering the enquiry proceedings, enquiry report, all relevant documents and the representation made by the concerned workman and took the decision to dismiss the concerned workman from his service and accordingly he was dismissed by letter dated 1/2-11-94. The concerned workman accepted the order of dismissal and did not raise any dispute over the issue. He continued his case before the trial court of the charge of theft of company's property which was ultimately decided in his favour acquitting him from the charges by judgement dated 25-2-99. The concerned workman thereafter submitted his representation for consideration of his reinstatement on the ground of his acquittal from the criminal charges levelled against him. The management examined the issue and observed that the trial court could not find him guilty due to non-examination of witnesses by the Police on behalf of the prosecution and the acquittal was not on the basis of merit of the case. Considering such a situation, the management could not find any ground to set aside the order of dismissal and to allow him to resume his duties. It has been submitted that the action of the management in dismissing the concerned workman from his services was legal and justified and he is not entitled to any relief. Accordingly, it has been prayed to pass an award accordingly.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each other written statement.

5. The management has produced MW-1—M.K. Singh, who has proved documents Exts. M-1 to M-8. He has stated in examination-in-chief that "Presently I am posted as Staff Officer (Personnel) at N.K. Area of N/S. BCCL.

In the year 1994 I was posted in Kusunda Area of BCCL. For conducting enquiry in connection with one chargesheet issued to the concerned workman, Lalchand Gope. I was appointed as Enquiry Officer, the concerned workman appeared and participated in the said enquiry. He was given full opportunity to cross-examine the management's witnesses. The concerned workman also gave his statement during enquiry. Upon the completion of enquiry I submitted my report holding the concerned workman guilty of the charge levelled against him. This is the copy of the charge-sheet dated 17-2-1994 issued to the concerned workman, marked Ext. M-1. This is the reply submitted by the concerned workman to the said chargesheet, marked Ext. M-2. By this letter dated 16-3-1994 I was appointed as enquiry officer, Marked Ext. M-3. This is the copy of the Enquiry Notice sent to the concerned workman, Marked Ext. M-4. These are the papers relating to enquiry proceeding which are in my handwriting. The same bear my signature as well as the signature of the concerned workman and management's representatives, Marked Ext. M-5. This is the enquiry report dated 2-7-94 submitted by me upon the completion of enquiry, Marked Ext. M-6. This is the copy of the letter dated 31-8-1994 by which the report was handed over to the concerned workman, Marked Ext. M-7. This is copy of dismissal letter dated 1/2-11-94 under the signature of General Manager, Marked Ext. M-8. I had conducted the enquiry fairly and properly. During the enquiry the concerned workmen never raised any complaint in respect of manner and conduct of enquiry."

6. The main argument advanced on behalf of the workman that he has been acquitted from the criminal charges of theft of cable for which FIR had been lodged and chargesheet dated 17-2-94. The police took up the case under G.R. No. 575/94 and T.R. Case No. 138/94. He was exonerated by Judicial Magistrate on the ground that no evidence has been produced who has caught red-handed. He was acquitted by Judicial Magistrate, Dhanbad, by order dated 25-2-99. It has been argued on behalf of the workman that when he has been acquitted in criminal case he should not have been dismissed by the management because of the fact that the management could not prove its case in G.R. Case No. 575/94 and T.R. Case No. 138/94.

Moreover, in the G.R. Case No. 575/94 and T.R. Case No. 138/94 no witness has been produced by the management to prove that the concerned workman was caught red-handed with a cable during duty hours.

7. As the enquiry was hold fair and proper, so it is not necessary to go in details of the enquiry, but as it has been admitted by the management that he was acquitted in the criminal case and no appeal has been filed by the management against the order passed by the Judicial Megistrate dated 25-2-99, in this respect management's witness MW-1 stated is cross-examination. It is true that one F.I.R. had been lodged against the concerned workman. I do not know whether prior to the enquiry any show-cause notice was issued to the concerned workman or not. It also shows that no show-cause notice was issued to the concerned workman before starting enquiry against him.

8. Because of the fact that theft has not been proved against the concerned workman it only shows that the charges levelled against the concerned workman has not proved beyond reasonable doubt and on that basis on the enquiry report has been dismissed from service.

9. In learned counsel of the management argued that disciplinary proceeding and criminal proceeding are different things and disciplinary proceeding cannot be set aside on the order passed by criminal court. In this respect the management referred 2008(2) JLR 511 in which Hon'ble Jharkhand High Court, Ranchi, observed that when the misconduct is proved either in the enquiry or by the evidence placed before the Tribunal, the punishment imposed cannot be interfered by the Tribunal except in cases where the punishment is so harsh as to suggest victimization. In the present case theft has not been proved by the management so that the punishment is very much victimisation of the concerned workman.

The management also referred 2003 Supreme Court Cases (I&S) 468 in which the Hon'ble Supreme Court laid down that punishment imposed by disciplinary authority unless shocking to the conscience of the court/trinubal, held, not subject to judicial review, where the court finds the punishment to be shockingly disproportionate, it must record reasons for coming to such conclusion.

In the present case the management has not proved by producing its own witness ragarding theft of wire, so without proving theft dismissal cannot be said to be proportionate. The management also referred 2004 Supreme Court Cases (I&S) 1967 in which Hon'ble Supreme Court laid down "Domestic enquiry—Charge-sheet—Severable charges—Omission in frame a charge—Enquiry if vitiated in its entirety—Bold, even proceeding on the basis that the charge not framed, namely, of extortion, has not been legally established and ought not to be considered as a misconduct, the other established miscondacts, of causing damage to property, gherao of the management and wrongfully confining the manager are severable, and are by themselves sufficient and grave enough to establish misconduct punishable under the Standing Orders applicable to the workmen concerned."

10. Considering the gravity of misconduct committed by the concerned workman though it has not been proved in the criminal court, but we should have passed award against the concerned workman for stopping further increment and further promotion till the date of joining instead of dismissal from service.

11. Accordingly I render the following award—The action of the management of Kusunda Area of M/s. BCCL in dismissing Sri Lal Chand Gope from the services of the company w.e.f. 1/2-11-94 is not justified. Hence, the concerned workman is entitled to be reinstated in service with 60% back wages, but he will not be entitled for further increments and further promotion till the date of joining. The management is directed to implement the award within 30 days from the date of publication of the award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.अ. 2124.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 318/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/07/2009 को प्राप्त हुआ था।

[सं. एल. 20012/280/2000-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2124.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 318/2000) of the Central Government Industrial Tribunal/Labour Court No.1, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 08/07/2009.

[No. L. 20012/280/2000-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of reference U/s 10(1) (d) (2A) of I.D. Act.

Reference No. 318/2000

Parties: Employers in relation to the management of M/s. B.C.C.L.

AND

Their workmen

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shri B.M. Prasad

For the Workmen : None

State : Jharkhand Industry : Coal

Dated, the 26th June, 2000

AWARD

By Order No. L. 20012/280/2000 IR(C-1) dt. 25/6/2000 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (i) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred to the following dispute for adjudication to this Tribunal :—

“Whether the demand of the RCMS that Shri Sham Lal Besra, U.G. Loader, dismissed from service due to unauthorised absence may be reinstated is just and proper? If so, to what relief is the workman entitled?”

It appears from the record that the case is pending from 21-11-2000 for filing of written statement by the workman but written statement has not been filed by the workman even by 3-6-2009 inspite of notice sent by speed post.

In view of above noted facts it is clear that workman is not interested to contest the case.

In view of above circumstances I pass No Dispute Award, in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.अ. 2125.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 260/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/07/2009 को प्राप्त हुआ था।

[सं. एल. 20012/419/2001-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2125.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 260/2001) of the Central Government Industrial Tribunal/Labour Court No.1, Dhanbad now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 08/07/2009.

[No. L. 20012/419/2001-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1) (d) and (2A) of Industrial Disputes Act, 1947

Reference No. 260 of 2001

Parties: Employers in relation to the management of Govindpur Area of M/s. BCCL

AND

Their workmen

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : Sri D.K. Verma, Adv.

For the Workmen : Sri D. Mukherjee, Adv.

State : Jharkhand Industry : Coal

Dated, the 23rd June 2009

AWARD

By Order No. L. 20012/419/2001 IR(C-I) dated 29-11-2001 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred to the following dispute for adjudication to this Tribunal :—

“Whether denial to regularise Sri Dilip Rajak, loading clerk by the management of Block -IV, Govindpur Area of M/s. BCCL is legal, proper and justified? If not to what relief is the concerned workman entitled and from what date?”

On 1-6-09 Sri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union, appearing on behalf of the concerned workmen filed a petition stating therein that the concerned workmen is not interested to contest the case.

Accordingly, in view of such submission I pass a NO DISPUTE AWARD in this case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2126.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी. सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1 धनबाद के पंचाट (संदर्भ संख्या 45/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08-07-2009 को प्राप्त हुआ था।

[सं. एल. 20012/80/1991-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2126.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.45/1992) of the Central Government Industrial Tribunal/Labour Court No.1, Dhanbad now as shown in the annexure in Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 08-07-2009.

[No.L. 20012/80/1991-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-NO.1, DHANBAD

In the matter of a reference U/s. 10(1)(d) (2A) of I.D. Act.

Reference No. 45 of 1992

Parties : Employers in relation to the management of Kusunda Colliery of M/S. BCCL.

AND

Their workmen

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shri D.K. Verma, Advocate

For the Workmen : Shri S. Sharma, Advocate

State : Jharkhand Industry : Coal

Dated, the 23rd June 2009

AWARD

By Order No. L. 20012/80/91-IR(C-I) dated.1-7-92 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred to the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Kusunda Colliery of M/s. BCCL, P.O. Kusunda, Dist. Dhanbad in not allowing the following workmen to resume their duties with back wages is justified? If not, to what relief the workmen are entitled?”

Name of the workmen :

1. Shri Dahu Paswan.
2. Shri Ram Chandra.
3. Shri Naresh Thakur.
4. Shri Debu Paswan.
5. Shri Radheshyam Paswan.
6. Shri Naurangi Thakur.
7. Shri Chhotaraj Kumar.
8. Shrimati Bara Parbatia Kamin.
9. Shrimati Janakwa Kamin

2. The written statement has been filed on behalf of the concerned workmen stating that they were working as wagon loaders in Kusunda Colliery of M/s. BCCL since before nationalisation of the said Colliery. They continued to work after nationalisation and they became the employees/workmen of BCCL under the provision of Sec.17(1) of the Coking Coal Mines (Nationalisation) Act, 1972. The management of BCCL stopped these concerned workmen from duty without any notice or assigning any reason some time in the month of August, 1976, in an illegal manner and inviolation of the provision of I.D. Act and also the provision of certified standing orders applicable to the colliery. The concerned workman made several representation to the management from time to time but of no avail. Management of BCCL issued a Circular in the year 1978-79 that all so called delisted casual wagon loaders who have put in 75 days attendance in all during the period from 1973 to 1976 should be taken on the roll of the company as miner/loader, who had been stopped from work during the said period. The concerned workmen in view of this circular filed their claims for employment with requisite papers with the management of Kusunda Colliery and a list of 162 such workmen was prepared which included the names of the concerned workmen. Other colliery of M/s. BCCL absorbed all such wagon loaders as miner/loader on the basis of the circular referred to above but the

concerned workman were not taken on the roll of the company. Ultimately the union raised the present industrial dispute which have been referred to this Tribunal for adjudication. The attendance of the concerned workmen yearwise is given :

	1973	1974	1975	1976	Total
1. Dehu Paswan	—	10	99 ^{1/2}	35	144 ^{1/2}
2. Janakwa Kamin	—	11	98	55	154
3. Radhey Shyam Paswan	—	12	75	40	127
4. Bara Parbatia Kamin	—	25	80	55	160
5. Ram Chandar Thakur	—	57	60	67	184
6. Naresh Thakur	—	37	75	85	197
7. Nawranghi Thakur	—	15	89	40	144
8. Dabu Paswan	—	11	83	70	164
9. Ch. Raj Kumari	—	15	70 ^{1/2}	69	154 ^{1/2}

The action of the management of BCCL, in stopping these concerned workmen for their work in the year 1976 was illegal and unjustified and further their action in not allowing the concerned workmen to resume their duties on the basis of the circular is also illegal and discriminatory and unjustified. It has been prayed that an award be passed holding that the action of the management in stopping the concerned workmen as illegal and unjustified and they be re-instated in service with continuity of service with full back wages for the idle period.

3. The management filed written statement stating that the sponsoring union raised the present demand for providing employment to the concerned workmen who claimed to be de-listed casual wagon loaders. They claim to have worked during the years 1974 to 1976 having put more than 75 days of attendance during the period from 1974 to 1976. It has been submitted that during the periods 1973 to 1976 the wagon supply in collieries used to be erratic. On some days more number of wagons used to be supplied whereas on other days less number or no wagon used to be supplied. In order to cope with the wagon loading operations within 5 hours from the time of placement of wagons on the railway siding it became necessary for the management to employ permanent wagon loaders, casual wagon loader and un-listed wagon loaders on the jobs of wagon loading. The permanent wagon loaders used to be provided jobs of wagon loading on all the days. Whenever no wagon used to be supplied on the Railway siding on any day, they were required to be provided alternative jobs on those days. The casual wagon loaders used to be provided jobs on wagon loading only whenever more wagons used to be placed on the Railway siding and the permanent wagon loaders cannot complete the wagon loading jobs of all the wagons. The delisted casual wagon loaders used to be provided jobs of wagon loading only on the days when exceptionally more number of wagons

used to be placed on the Railway siding and the same could not be allotted to the permanent and casual wagon loaders of the Company. The permanent wagon loaders as well as casual wagon loaders were provided with identity cards and their names were entered in the Form 'B' Registers and they were paid wages on the pay slips provided to them. They were also paid bonus on the basis of Bonus Cards issued to them. The de-listed casual wagon loaders were not provided with any Identity Cards and their names were not entered in the Form 'B' Registers. They were the persons who used to be employed for that date only and after the work is over, there was no requirement for them. Whosoever used to be available at a particular time and was willing to do the wagon loading job, used to be engaged for that date. The management took effective steps in consultation with the Railway Administration and regularised supply of wagons on the utilised pay loaders to mechanically load wagons whenever more wagons used to be supplied on any siding. The management stopped the practice of engagement of un-listed casual wagon loaders and such un-listed casual wagon loaders were delisted and no one was provided with any job of wagon loading from the year 1976. In the year 1980, the management in consultation with Trade Unions decided to enrol some Badli miner loaders to be deployed during leave and sick vacancies of permanent wagon loaders. The un-listed/de-listed casual wagon loaders were given chance to be enrolled as Badli miners/loaders for underground mines only and the eligibility criteria for consideration for their employment as Badli miner/loaders was that they should have put minimum of 75 days attendance during the years 1973 to 1976 and they should be suitable for their deployment as miner/loader underground. The General Managers of the Areas were authorised to select such number of Badli miner/loaders required for their different mines under their control. The circular dated 4-8-80 was subsequently canceled by circular dated 25-2-1982 and no un-listed/de-listed casual wagon loader was to be considered for his employment as Badli miner/loader after that date. It has been submitted that de-listed/un-listed casual wagon loaders had no right to demand for employment under the management. The management had no obligation to provide them job. It has been submitted that after withdrawal of the circular dated 4-8-80, the authority conferred on the General Managers to enrol de-listed/un-listed casual wagon loaders as Badli miner/loaders was cancelled and they do not have any right to employ any such person as Badli miner/loader. All recruitments are required to be made as per the recruitment procedure of the company and that too through Employment Exchange. Thus the back door method of employment of the workman has been stopped and the powers conferred upon the local managements was withdrawn even for enrolment of any workman as Badli miner/loader. It has been submitted that the sponsoring union has made a demand to provide them employment through litigation by declaring them as de-listed casual wagon loaders. It is submitted that in the absence of any

existing right and in the absence of proof of genuinenity, the concerned persons cannot claim to be employed under the management even as Badli miner/loader. It has been prayed that the Hon'ble Tribunal be graciously pleased to pass the award holding that the concerned workmen are not entitled to any relief.

In rejoinder, the management has stated almost same things as have been stated in the written statement. It has been submitted that the concerned workman were not on the roll of the colliery and the question of stopping them from their duties did not arise. It has been denied that the concerned persons were stopped from their duties in violation of the provisions of I.D. Act and Certified Standing Order of the colliery.

4. The management has produced MW-1—S.N. Sinha—who has supported the management's case and stated in examination-in-chief—"I was posted at Husunda Area of BCCL as Personnel Manager from 1980 to April, 1985. Sometime in the year 1980 there was a circular for enrolment of de-listed casual miner/loader as badli miner/loader. As per requirement we used to keep badli miner/loader according to seniority casual miner/loader. Said circular was withdrawn in the year 1982. During my tenure of posting I had considered the applications filed for enrolment of badli miner/loader but I had not ordered for such enrolment because there was no vacancy at that time. Whoever might have applied for enrolment as badli miner/loader I must have processed their applications. I do not recollect if I had processed applications of concerned persons for enrolment as badli miner/loader. Whoever had applied for enrolment of badli miner/loader I had put signature in the duplicate copy of such applications in token of receipt of the applications.

The workmen have examined WW-1—Ram Chandra Thakur, who has supported their case. He has stated in examination-in-chief—"I used to work in Kusunda Colliery as Wagon Loader. In the said Colliery I was appointed in the year 1973. I worked in the said capacity till August, 1976. After the year 1976 I was stopped from attending my duties by the management. In the said colliery alongwith me altogether about 200 workmen used to work as wagon loaders. Initially they all were stopped from work but later barring the nine concerned workmen of this case including myself rest all of them were allowed to resume their duties. When they were taken back into the employment female workers were allowed duties on surface and the male workers were assigned duties underground. I am deposing in this case on behalf of all the concerned workmen. Our claim is that we should be taken back into the employment once again with full back wages and in case any of the concerned workman is found not medically fit for employment then in his place his dependent should be provided employment.

5. Main argument advanced on behalf of the concerned workmen that they were doing their services

with the management before nationalisation and after nationalisation Kusunda colliery came under M/s. BCCL in the year 1972 and they were working as wagon loaders. M/s. BCCL stopped them from work without assigning any reason from the month of August, 1976 in an illegal manner and in violation of the provisions of the Standing Orders applicable to the colliery. In this respect number of representations have been made from time to time but to no effect. The management of M/s. BCCL issued a Circular in the year 1978-79 that all the so-called delisted casual wagon loaders, who have put in 75 days attendance in all during the period from 1973 to 1976 should be taken on the roll of the Company as loader, who had been stopped from the work during the said period. The concerned workmen in view of the circular filed claim for employment with requisite papers with the management of Kusunda Colliery and a list of 162 such workmen was prepared, which included the names of the concerned workmen. But the management did not take these concerned workmen amongst the workmen circulated in the list of 162 workmen and when the union approached the management to take these workmen on roll, the management submitted that due to some complaint in this regard to the preparation of the list, the matter is being enquired by the Vigilance and as soon as the matter is cleared, the workmen will be taken on the roll. But nothing happened and the management continued to put off the matter on this and that pretext. Other colliery of M/s. B.C.C. Ltd. absorbed all such wagon loaders as miner/loader on the basis of the circular, referred to above, but the concerned workmen were not taken on the roll of the colliery. Ultimately the union raised the present dispute which has been referred to this Tribunal for adjudication. The action of the management in stopping the concerned workmen from service is illegal and unjustified. It has been prayed that the concerned workman may be reinstated in service with full back wages and other benefits.

6. The learned counsel of the management argued that the concerned persons have not worked for 75 days or 240 days in each year and their claim is not justified at all. In order to cope with the wagon loading operations within 5 hours from the time of placement of wagons on the Railway siding it became necessary for the management to employ permanent wagon loaders, casual wagon loaders and un-listed wagon loaders on the jobs of wagon loading. The permanent wagon loaders used to be provided jobs of wagon loading on all the days. Whenever no wagon used to be supplied on the Railway siding on any day, they were required to be provided alternative jobs on those days. The casual wagon loaders used to be provided jobs on wagon loading only whenever more wagons used to be placed on the Railway siding and the permanent wagon loaders cannot complete the wagon loading jobs of all the wagons. The delisted casual wagon loaders used to be provided jobs of wagon loading only on the days when exceptionally more number of wagons used to be placed on the Railway siding and the same could not be allotted to the permanent and casual wagon loaders of the company.

The permanent wagon loaders as well as casual wagon loaders were provided with Identity Cards and their names were entered in the Form 'B' Registers and they were paid wages on the pay slips provided to them. They were also paid bonus on the basis of Bonus Cards issued to them. The delisted casual wagon loaders were not provided with any Identity Cards and their names were not entered in the Form 'B' Registers. Whosoever used to be available at the particular time and was willing to do the wagon loading job, used to be engaged for that date. The management took effective steps in consultation with the Railway Administration and regularised supply of wagons on the Railway siding on regular basis. The management also utilised pay loaders to mechanically load wagons whenever more wagons used to be supplied on any siding. The management stopped the practice of engagement of un-listed casual wagon loaders and such un-listed casual wagon loaders were delisted and no one was provided with any job of wagon loading from the year 1976. In the year 1980 the management in consultation with Trade Unions decided to enrol some Badli miner loaders to be deployed during leave and sick vacancies of permanent wagon loaders. The un-listed/de-listed casual wagon loaders were given chance to be enrolled as Badli miners/loaders for underground mines only and the eligibility criteria for consideration for their employment as Badli miner/loaders was that they should have put minimum of 74 days attendance during the years 1973 to 1976 and they should be suitable for their deployment as miner/loader underground. The Circular dated 4-8-80 was subsequently cancelled by Circular dated 25-2-82 and no un-listed/de-listed casual wagon loader was to be considered for his employment as Badli miner/loader after that date. The de-listed/un-listed casual wagon loaders had no right to demand for employment under the management. The management had no obligation to provide them job. It was at the discretion of the management to provide them job if the same could be available during the period 1973 to 1976. Thus, the de-listed/un-listed casual wagon loaders had no existing right to claim for employment under the management under any provision of law, settlement or award. The Circular dated 4-8-1980 issued for enrolment of de-listed/un-listed casual wagon loaders did not confer any right on such categories of workmen for their regular employment under the management. It was purely a case of enrolment as Badli miner/loader to be provided employment as and when required during leave and sick vacancies of permanent miner/loaders. Thus no right was conferred on such workmen even after their enrolment to demand for regular jobs for miners/loaders. After withdrawal of the circular dated 4-8-80 the authority conferred on the General Managers to enrol de-listed/un-listed casual wagon loaders as Badli miner/loaders was cancelled and they do not have any right to employ any such person as Badli miner/loader. All recruitments are required to be made as per the recruitment procedure of the company and that too through Employment Exchange.

Therefore, the back door method of employment of the workman has been stopped and the powers conferred upon the local managements was withdrawn even for enrolment of any workman as Badli miner/loader.

In this respect Exts. W-1 to W-1/8 series filed by the concerned workmen to show that the concerned workmen worked against permanent vacancy since 1973 to August, 1976 continuously. In this respect the statement of WW-1 is very material, who has stated in cross-examination that "I have not worked continuously for 240 days in 12 calendar months." He has also stated in cross-examination that "I cannot say whether we had worked for 75 days in one calendar year or not." "We were not granted the pay slips and the payment of wages used to be made through office register." This statement of the concerned workmen shows that they have not worked for 75 days in one calendar year. So they cannot be provided employment. Moreover, their claim has been made after ten years. The circular of the year 1980 has been withdrawn by management in the year 1982. The concerned workman WW-1 stated in cross-examination that "I do not know as to what has been written on our behalf in the written statement filed in this case. It only shows that he has come only to give evidence nothing more. It cannot be said that he has supported the case of the concerned workmen on whose behalf written statement has been filed. The name of WW-1, Ram Chandra Thakur does not find in the list. There is one person in the name of Ram Chandra in the list. So it may be presumed that the evidence has been given by any other person and not by the person on whose name the notification has been issued by the Government for adjudication.

7. In this respect the management has referred 2003 Supreme Court Cases (L&S) 87 between Assistant Executive Engineer, Karnataka Vs. Shivalinga, in which the Hon'ble Supreme Court laid down—

"Industrial Disputes Act, 1947—S. 10—Reference—Delay in making—When fatal—Termination of service—Reference made more than nine years later—There was a serious dispute or doubt as to the relationship between the parties as employer and employee and thus record of the employer became relevant—In such circumstances, the long delay, held, would impede the maintenance of records—Hence, Labour Court rightly rejected the reference on the ground of delay."

8. In view of the facts and circumstances discussed above, I find that the action of the management of Kusunda Colliery of M/s B.C.C.L. P.O. Kusunda, District Dhanbad in not allowing the concerned workmen, mentioned in the schedule of reference, to resume their duties with back wages is justified and accordingly, the concerned workmen are not entitled to get any relief.

This is my Award.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2127.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी.सी.सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारी के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 3/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल. 20012/393/1995-आईआर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2127.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 3/1997) of the Central Government Industrial Tribunal/Labour Court No.1, Dhanbad now as shown in the annexure in Industrial Dispute between the employers in relation to the management of M/s. B.C.C.L. and their workman, which was received by the Central Government on 8-7-2009.

[No. L. 20012/393/1995-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. I, DHANBAD

In the matter of reference U/s. 10(1)(d)(2A) of
I.D.Act.

Reference No. 3/1997

Parties : Employers in relation to the management of
Moonidih Project of M/s. B.C.C.L.

AND

Their workmen

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shri B.M. Prasad
Advocate.

For the Workmen : Shri S.C. Gour,
Advocate.

State : Jharkhand Industry : Coal.

Dated, the 25th June, 2009

AWARD

By Order No. L. 20012/393/95-IR(Coal-I) dated 18-12-1996 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred to the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Moonidih Project of M/s. B.C.C.L. in dismissing

Shri Sajat Khan from service is justified? If not, to what relief is the said workman entitled?”

2. The case of the concerned workman is that he was appointed by the management of M/s. B.C.C.L. on 9-1-1992 in pursuance of approval for appointment vide No. 25162-66 dated 12/20-8-1991 as Fitter Apprentice Category-I with direction to report for duty to General Mazdoor (H.R.D.) Koyla Bhawan, B.C.C.L. for further posting at Moonidih. The concerned workman was allowed to work at Moonidih Project/Mine from 1-1-1992 as Fitter Apprentice Category-I and was given Token No. 2961 and Form 'B' No. 5926. After initial training of Group Vocational Training Centre, Moonidih he was advised vide order dated 18-2-92 to report for duty to Project Officer, Moonidih Mine. The workman was offered employment under Clause 9.4.2 of NCWA-IV after his father, Akbar Khan, died while on duty arising out of and course of employment. Such employment to dependent is as per terms of agreement of NCWA and cannot be denied. The concerned workman was issued with a charge-sheet on 27-2-1992 with suspension for submitting fake certificate. The workmen denied the same in reply as well in departmental proceedings. He had filed matriculation certificate together with Head Master's certificate confirming he had passed matriculation examination. No letter of Bihar Board of Examination was produced by the management representative during the course of enquiry proceeding to prove Bihar Board's stand about the so-called fake certificate. The workman produced Head Master's certificate confirming the stand of the workman that he passed matric from the said school. The workman appealed in writing to the Enquiry Officer on 28-4-92 to get the matter enquired from the office of Jt. Secretary (Vigilance), Bihar Vidyalaya Pariksha Board, Patna-17 but the biased Enquiry Officer did not listen to the just demand of workman. The workman, after perfunctory enquiry proceeding, was dismissed from the service of the Company by order dated 22/23-7-1992 from incompetent person, without approval of the disciplinary authority. The Enquiry Officer in his findings on 11-5-92 had suggested the management for verification of certificate from Bihar School Examination Board, Patna, but the biased and motivated management did not give any heed to the suggestions made and went ahead to issue illegal order of dismissal w.e.f. 22/23-7-92. It has been stated that before order of dismissal, no 2nd show-cause notice was given to the workman forwarding findings of Enquiry Officer and proposed punishment etc. No reasonable opportunity was given and principles of natural justice was also violated. After exhausting all avenues to get justice from the management, an industrial dispute was raised which after failure has been referred to this Hon'ble Tribunal for adjudication. It has been prayed that the Tribunal be pleased to hold that the action of the management in dismissing the concerned workman from service w.e.f. 22/23-7-92 as unjustified and order for re-instatement in service with full back wages.

3. The case of the management is that the concerned person was an Apprentice within the meaning of Apprentice Act, 1961 and was not a workman as per the

provisions of Industrial Disputes Act, 1947. Therefore, no industrial dispute can be raised on behalf of the person who was not a workman at the relevant time. It has been submitted that the concerned person applied for providing opportunity to work as apprentice to learn the jobs of fitter and he enclosed a matriculation certificate to enable him to be appointed as apprentice as per the provisions of Apprentice Act. He submitted the application form as dependant of late Akbar Khan, extramur of Sendra Bansjora Colliery. He was given the offer of appointment by letter dated 9-1-92 at Sijua area as trade apprentice as he asserted that he was a matriculate and was competent enough to undertake training as per the provisions of Apprentice Act, 1961. After his appointment, he was transferred to Moonidih Area for taking training as apprentice. But at the time of verification of his educational certificate it was observed that the matriculation certificate submitted by him was not genuine and the same was a fabricated document. Accordingly, a chargesheet dated 27-2-92 was issued to him and he was kept under suspension during the pendency of the enquiry. The concerned workman submitted his reply dated 16-3-92 denying the charges levelled against and asserted that he did not commit any misconduct as alleged against him. The management appointed Sri R.C. Srivastava, Dy. Personnel Manager, Moonidih Project as Enquiry Officer by order dated 30/31-3-92 and Sri R.K. Jha, Sr. Personnel Officer was appointed as management representative.

The Enquiry Officer issued notice dated 2-4-92 fixing the date of enquiry on 11-4-92 and the concerned workman appeared on that date and participated in the enquiry. The departmental enquiry was conducted on 11-4-92, 28-4-92, 30-4-92 and 2-5-92. The concerned workman fully participated in the departmental enquiry to properly defend himself on the charges levelled against him. It has been submitted that the concerned workman was given full opportunity to cross-examine the management's witnesses, to give his own statement and to produce defence witnesses. He did not raise any objection against the procedure of enquiry adopted by the Enquiry Officer. The Enquiry Officer after completion of the departmental enquiry submitted his enquiry report dated 13-7-92 holding the concerned workman guilty of the charges levelled against him. The competent authorities examined the enquiry report, enquiry proceedings, the relevant papers and documents as well as the representation made by the concerned workman and took the decision to dismiss the concerned person from his service and, accordingly, he was dismissed by order dated 22/23-7-97.

In its rejoinder the management has stated that the concerned person was provided employment as dependant of his father in the capacity of an apprentice only because he claimed to be a matriculate and produced the matriculation certificate which proved to be false and fabricated. It is wrong to suggest that such employment was as per agreement but was as per the general procedure adopted by the management keeping in line with the provisions of NCWA. No right exists on any workman to get his dependent son employed in a Public Sector

Undertaking and any rule or agreement made for providing employment to the dependant becomes null and void as the same is unconstitutional. The concerned workman had no right to claim for his employment under any provision of law. It has been denied that the Enquiry Officer was biased or did not listen to the demand of the concerned workman. It has been prayed that the Hon'ble Tribunal be graciously pleased to pass an award holding that the concerned workman is not entitled to any relief.

4. With the consent of the parties the documents of the workman were marked as Exts. W-1 to W-7 and the documents of the management were marked as Exts. M-1 to M-18. No oral evidence has been produced by either party.

5. Shri S.C. Gour, Advocate, appearing on behalf of the workman conceded the departmental enquiry held by the management as fair and proper and accordingly by order dated 29-5-2000 it was held that the departmental enquiry held by the management as fair and proper.

6. The argument advanced on behalf of the concerned workman that he produced matric pass certificate on which basis the management dismissed him being forged and fabricated document. He has also argued that regarding above certificate charge-sheet was issued in February, 1992. He had produced matric pass certificate from the Head Master, Bhaga High School, Dhanbad and he made request to get the matter enquired from Jt. Secretary, Vigilance, Bihar Vidyalaya Parikha Board, Patna. But this has not been done by the management. But the management did not give any heed to the suggestion of the Enquiry Officer and even did not give opportunity to the workman that why they differed from Enquiry Officer (Ext. W-4) and dismissed the workman from the service of M/s. BCCL on 22/23-7-1992. No 2nd show-cause notice, prior to order of dismissal was given, which caused prejudiced to the workman. The Head Master of the School was also not produced as a witness either at the departmental proceeding level nor before the Tribunal to prove the genuinity of the certificate issued to the concerned workman. The concerned workman has produced Ext. W-1 which is appointment letter dated 12/20-8-91, Ext. W-2 is certificate issued by Bihar Vidyalaya Parikha Samiti showing that the concerned workman passed matriculation examination in second division in the year 1979 which shows his date of birth as 5-1-1964, Ext. W-3 is certificate from Swatantra Bharat High School, Bhaga stating that the concerned workman passed matriculation examination in 2nd division in 1979 and his date of birth is 5-1-1964, Ext. W-4 is note-sheet written by Enquiry Officer, Ext. W-5 is his application for verification from Bihar Vidyalaya Parikha Board, Patna, regarding his matriculation certificate, Ext. W-6 is another application by the concerned workman and Ext. W-7 is School Leaving Certificate from Swatantra Bharat High School, Bhaga dated 12-7-79.

7. The management has filed Ext. M-1, chargesheet-cum-suspension letter, Ext. M-2 reply of the concerned workman, Ext. M-3, is appointment of Enquiry Officer, R.C. Srivastava and management representative, R.K. Jha,

Ext. M-4 is notice to the concerned workman for his appearance, Ext. M-5 is enquiry proceedings, Ext. M-6 is order of dismissal, Ext. M-7 is school leaving certificate from Swantantra Bharat High School, Bhaga and Ext. M-8 is attestation form of the concerned workman with the management. Ext. M-9 is offer of appointment, Ext. M-10 is certificate of the concerned workman issued by Swatantra Bharat High School, Bhaga, Ext. M-11 is the letter of Swantantra Bharat High School, Bhaga concerning the concerned workman that the concerned workman has not passed matriculation examination. No certificate has been issued regarding the concerned workman and also regarding another person, Bal Kishore Shit son of Ramdeo Shit, Ext. M-12 is appointment letter of the concerned workman. Ext. M-13 is application for joining, Ext. M-14 is the order by Principal regarding training, Ext. M-15 is letter of appointment for training. Ext. M-16 is application by the concerned workman for appointment, Ext. M-17 is matriculation certificate issued by Bihar Vidyalaya Parikha Samiti and Ext. M-18 is industrial dispute raised by the union and reply filed by the management with A.L.C. (C), Dhanbad.

8. The learned representative of the management argued that the concerned workman filed false and fabricated certificate of matriculation.

9. The concerned workman argued that because of the fact the concerned workman got quarrel with the Principal of Swantantra Bharat High School, Bhaga, so he has issued wrong certificate that the concerned workman has not passed from the High School and this has got no relevancy because once a certificate is issued from the School that cannot be denied by the School. But his can be proved only by producing the evidence of the concerned person who has written Ext. M-11. It shows that fictitious certificate has been submitted by the concerned workman and another person, Bal Kumar Shit. It shows there is no quarrel with the concerned person with above School on which basis this can be presumed that he has got genuine certificate and passed matriculation examination from Swantantra Bharat High School, Bhaga because there is no evidence that the concerned school has quarrel with Bal Kishore. Hence, that such certificate has not been issued by the School. This certificate is wrong. This can be proved by the concerned by calling witness and Admission Register from the School. The concerned workman has also not possessing original matric certificate or school leaving certificate. He has filed photo copy. No sufficient reason has been given by the workman for not producing original certificate which has been granted by Swantantra Bharat High School, Bhaga. Moreover, the concerned workman had got opportunity to give evidence in enquiry proceedings also and by producing evidence from Swantantra Bharat High School, Bhaga or Bihar Vidyalaya Parikha Samiti, Patna of any officials who are maintaining that record because in absence of that no presumption can be taken that this certificate is genuine which has been produced by the concerned workman because when there are two certificates from the concerned school, one is for matriculation school leaving certificate and another is

letter of enquiry which has been written to the management on the demand of the Enquiry Officer by the Swantantra Bharat High School, Bhaga (Ext. M-11) that such certificate has not been issued by this School. The school leaving certificate in which the concerned says that Ext. W-3 has been issued by Swantantra Bharat High School, Bhaga, but it does not in proper form as prescribed under rules and the school leaving certificate, Ext. W-7 there is no continued serial number of any School Leaving Register. School Leaving Register is continuous register on which basis Ext. W-7 has been issued. But this Ext. 7 has not continued any printed number which may show that this has been issued by Swantantra Bharat High School, Bhaga, from its register. It only shows that Ext. W-7 is a proforma which has been filled by some one as the signature is also not legible. Ext. W-7 is also incomplete and the date of birth seems to have been entered by another pen. By not producing original school leaving certificate and matriculation certification it only shows that because they are forged and fabricated so the concerned workman not dared to file the matriculation certificate and school leaving certificate and also not examined the Head Master and the Issuing Clerk of Swantantra Bharat High School, Bhaga.

10. In view of the discussions made above, I come to the conclusion that the action of the management of Moonidih Project of M/s. BCCL in dismissing Shri Sajat Khan from service is justified and hence the concerned workman is not entitled to get any relief.

In the above manner the award is passed.

H. M. SINGH, Presiding Officer

नई दिल्ली, 8 जुलाई, 2009

का.आ. 2128.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी.सी.सी. लि. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 225/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8-7-2009 को प्राप्त हुआ था।

[सं. एल-20012/363/2001-आई आर(सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 8th July, 2009

S.O. 2128.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 225/2001) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the annexure in Industrial Dispute between the employers in relation to the management of M/s. B.C.C. Ltd. and their workmen, which was received by the Central Government on 8-7-2009.

[No. L. 20012/363/2001-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I, DHANBAD**

In the matter of reference U/s. 10(1) (d) (2A) of
I. D. Act.

Reference No. 225 of 2001

PARTIES : Employers in relation to the management of
Kusunda Area of M/s. B.C.C. Ltd.

AND

Their workmen

PRESENT : Shri H. M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shri S. N. Shinha,
Advocate.

For the Workmen : Shri S.C. Gour,
Advocate.

State : Jharkhand Industry : Coal.

Dated, the 12th May, 2009

AWARD

By Order No. L. 20012/363/2001-IR (Coal-I) dated 10-10-01 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. B.C.C. Ltd. in dismissing Shri Fagu Singh, the former M/Loader, Gondudih Colliery from the service of the Company is fair and justified? If not, to what relief is the concerned workman entitled?"

2. The case of the concerned workman is that he was permanent employee and had put in unblemished record of service. The concerned workman fell ill on 23-9-98 and was under treatment from 24-9-98 at BCCL's Bhuli Hospital under BCCL's Doctor. He after recovery and as per Doctor's advice reported for duty to the management of Gondudih Colliery in January, 1999 with fitness papers and prescriptions etc., but was not allowed for duty by the management personnels. After waiting for a week or so, the concerned workman again fell ill, due to jointice and was under treatment by village Doctor and on full recovery reported for duty on 15-3-99 but again he was not allowed and kept under forced idleness. After about ten days or so, the management issued him a charge-sheet for unauthorised absence from duty w.e.f. 24-9-98 and the workman replied to the charge-sheet. One Sri N. K. Choudhary was appointed as Enquiry Officer to substantiate the charges of so called unauthorised absence from duty. The Enquiry Officer completed departmental proceedings on 25-5-98 and submitted his findings/report to the Agent/Dy. C.M.E., Gondudih Colliery on 30-8-99 that the charge levelled could not be

established, thus exonerated the charge-sheeted person completely. The Agent/Dy. C.M.E. wanted the E.O. to change his finding but the Enquiry Officer refused to change his report, as desired by his Boss. The Dy. C.M.E./Agent, Gondudih Colliery was bent upon to dismiss the concerned workman and appointed another person Sri A. Ram as Enquiry Officer to conduct fresh enquiry into the matter of the same charge. The appointment of another Enquiry Officer to conduct fresh departmental proceeding into the same matter was uncalled for and illegal. The 2nd Enquiry Officer conducted departmental proceeding on 5 & 7-10-99 and submitted finding/report to his Boss, as desired and briefed by the Dy. C.M.E./Agent of the said colliery forcibly establishing charge of so-called unauthorised absence from duty. The concerned workman was dismissed from service of the company by order dated 18/19-11-99 on the finding of the 2nd Enquiry Officer. The concerned workman filed mercy appeal subsequently, but the same was neither acknowledged nor replied by the Appellate Authority. The appointment of the 2nd Enquiry Officer is improper, illegal and against the Standing Orders and as such dismissal is also illegal, motivated and wrongful. The reasons for deferring with the report of the 1st Enquiry Officer was not communicated to the concerned workman which amounts to violation of principles of natural justice. The finding of the 2nd Enquiry Officer is perverse as material on record was ignored intentionally and action of dismissal is excessively harsh, disproportionate to the guilt and motivated. It has been prayed that the Tribunal be graciously pleased to hold that the dismissal of the concerned is neither fair, proper nor justified and the concerned workman is entitled for re-instatement in service with full back wages.

3. The case of the management is that Fagu Singh, the concerned workman, was working in Gondudih colliery as Miner/Loader. He was sick from 24-9-98 to 25-1-99 and was under the treatment of Bhuli Hospital of BCCL. After getting fitness certificate from the Hospital, he went to his native place instead of joining to his duties at the colliery without submitting any leave application or informing verbally or in writing. He also did not inform that he was under the treatment of Bhuli Hospital with the result he was issued Charge-Sheet No. 1055 dated 25-3-99 for absents from duties without information and permission of the management. Shri H. K. Chowdhury, the then senior P.O., was appointed Enquiry Officer by the Project Officer/Agent of the colliery. Enquiry was held on different dates. The concerned workman fully participated in the enquiry. He was asked to keep co-worker to assist him in course of enquiry, which he refused. The charge-sheeted workman was given full opportunity to cross-examine and to produce defence witnesses which he refused. The Enquiry Officer submitted the report to the Project Officer in which charges as levelled against the concerned workman was not proved. With the result the Project Officer appointed one Sri A. Ram, Enquiry Officer, who fixed up the enquiry on 5-10-99 but the enquiry could not be held on that date on the request of the charge-sheeted workman. Accordingly it was fixed on 7-10-99. The concerned

workman participated in the enquiry but refused to cross-examine the prosecution witness nor produce any defence witness in support of his case. Accordingly the Enquiry Officer submitted his enquiry report which was examined by the Competent Authority who came to the conclusion after accepting the finding of the Enquiry Officer that the concerned workman should be dismissed from the service of the company. Accordingly, the Agent/ Project Officer, Gondudih colliery dismissed him from service of the company vide letter No. 4943 dated 18/19-11-1999. It has been prayed that the Tribunal may be pleased to give the award holding that the concerned workman is not entitled to any relief.

4. Both parties have filed their respective rejoinder admitting and denying the contents of some of the paragraphs of each other's written statement.

5. The management has produced MW-1—Akhileshwar Ram, who has proved documents, Ext. M-1 to M-8. He was the Enquiry Officer.

The concerned workman has produced himself as WW-1 who has produced documents as Exts. W-1 to W-2.

6. Main argument advanced on behalf of the concerned workman is that the 1st enquiry was held regarding which charge-sheet has been issued by the management in January 1999 for absence from duty without permission w.e.f. 24-9-98. Reply to the charge-sheet was filed but even then the management appointed Enquiry Officer who submitted his finding holding that the workman not guilty as he was all along under treatment in BCCL's Hospital. But after a couple of months another Enquiry Officer was appointed by the management on 5-10-99 to enquire in the same matter who conducted enquiry on the same day i.e. 5-10-99 without giving chance and opportunity to the workman to make any complaint in regard to the 2nd enquiry and subsequently the workman was dismissed from service on the finding of the 2nd Enquiry Officer ignoring the report of the 1st Enquiry Officer. The Employer insisted that dismissal was on proved misconduct, although accepted that they appointed a 2nd Enquiry Officer to enquire in the same matter and same charge-sheet. Date of dismissal is dated 18/19-11-99. After dismissal, the workman filed a mercy appeal but there was none to take a decision, as the Appellate Authority approved order of dismissal. Thus the workman was denied opportunity of hearing, which resulted into violation of principles of natural justice. Moreover, appointment of 2nd Enquiry Officer to the enquire into the same charges is not only illegal but at the same it is motivated and wrongful act of the management. It has also been argued that the workman was not given opportunity of hearing, when the Disciplinary Authority differed with the findings of the 1st Enquiry Officer. This also amounts to violation of principles of natural justice. The 2nd enquiry report is without jurisdiction and perverse.

The workman has referred 1998 Lab. I. C. 3012 in which Hon'ble Supreme Court laid down that the enquiry report in favour of the delinquent, Disciplinary Authority proposing to differ must give an opportunity of hearing to delinquent before recording conclusion. The workman also referred 1998 Lab. I. C. 2669 in which Hon'ble High Court, Andhra Pradesh laid down that 2nd enquiry on

same charge is not admissible and can not be held unless service conditions so provides. He also referred 1999 Lab. I. C. 493 in which Karnataka High Court laid down that Disciplinary Authority disagreeing with the findings of Enquiry Officer and decides De-Novo enquiry under different Enquiry Officer is improper. No cogent ground has been mentioned by the management regarding 2nd enquiry which has been conducted against the concerned workman.

7. Regarding dismissal which has been passed as per Ext. M-8 dated 18/19-11-1999 it shows that dismissal order has been passed without giving second opportunity to the concerned workman for stating his case because in this dismissal order there is no mention that enquiry report and proceeding have been served to the concerned workman and opportunity has been given to appeal against the dismissal order. The 2nd enquiry report which has been accepted by the management shows discrimination and against the principle of natural justice because opportunity was not given to the concerned workman regarding change of Enquiry Officer but not accepting 1st enquiry report. The Enquiry Officer, MW-1—A. Ram, has stated in cross-examination—"I do not know whether in respect of the same chargesheet another enquiry had already been held earlier or not. From this appointment letter (Ext. M-1) it does not appear whether enquiry was held earlier also or not. I do not know whether the charge-sheet was for minor or major penalty but the said charge-sheet was issued on the charge of unauthorised absence." He has also stated—"It is true that on 5-10-99 the letter regarding my appointment as Enquiry Officer was issued and on the same day I issued enquiry notice to the concerned workman which was received by him on the same day and upon his request on that date itself I took up the enquiry." This statement of the Enquiry Officer shows that the enquiry was done hurriedly and speedily and issued the notice to the concerned workman. It has been also stated by MW-1, Enquiry Officer in cross-examination at page 3—"I have mentioned in my report that from the documents produced the sickness of the concerned workman only for a particular period is proved and not beyond that. As per the chargesheet the concerned workman was found to be unauthorisedly absent since 24-9-98." This report of Enquiry Officer shows that he was very much adamant to give report against the concerned workman. He has conducted the enquiry very hurriedly. There is no cross-examination of WW-1, concerned workman, who has stated in examination-in-chief—"I was appointed as miner/loader in the year 1983 at Gondudih colliery. In the year 1998 I fell ill and I was admitted in Bhuli Hospital of the management. After recovery from illness I reported for duty alongwith medical fitness certificate. The management did not allow me to join duty but issued me a charge-sheet. H. K. Chowdhury was appointed as Enquiry Officer. I participated in the enquiry. Thereafter the management got an enquiry conducted by A. Ram, Personnel Officer. This is letter regarding second enquiry, marked Ext. W-1. I was not given any opportunity to submit reply nor I was given opportunity to defend myself. The enquiry was held on

one and the same day. Thereafter I was dismissed from service. I had filed an appeal against my dismissal. This is the copy of memo of appeal which has been duly received by the management, marked Ext. W-2. The second enquiry on the same charge was illegal." When there is no cross-examination the statement stated in examination-in-chief on oath should be accepted.

8. In view of the facts and circumstances discussed above, I come to the conclusion that the action of the management in dismissing the concerned workman is not justified and the concerned workman is entitled to be re-instated in service without back wages.

9. Accordingly, I render the following award—

The action of the management of M/s. B.C.C. Ltd. in dismissing Sri Fagu Singh, the former Miner/Loader of Gondoodih Colliery from the services of the Company is not fair and justified. Hence, the concerned workman is entitled to be re-instated in service but without back wages. The management is directed to implement the award within 30 days from the date of publication of the award.

H.M. SINGH, Presiding Officer

नई दिल्ली, 9 जुलाई, 2009

का.आ. 2129.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्थ एस्टर्न रेलवे प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 73/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-7-2009 को प्राप्त हुआ था।

[सं. एल. 41012/42/2000-आई. आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 9th July, 2009

S.O. 2129.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 73/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of North Eastern Railway and their workmen, received by the Central Government on 9-7-2009.

[No. L.-41012/42/2000-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
LUCKNOW.

Present: N.K. Purohit, Presiding Officer

I.D. No. 73/2000

Ref. No. L-41012/42/2000/IR (B-1) dated 17-08-2000

BETWEEN

Shri Baijnath S/o Shri Madho Ram Village & Post
Dharaincha Bazar Sitapur

And

1. The Divisional Railway Manager
North Eastern Railway
DMR Office, Ashok Marg
Lucknow
2. The Assistant Engineer
AEN Office
Sitapur

AWARD

30-6-2009

1. By Order No. L-41012/42/2000/IR (B-1) Dated 17-08-2000. The Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Baijnath S/o Shri Madho Ram, Village & Post Dharaincha Bazar, Sitapur and the Divisional Railway Manager, North Eastern Railway, DMR Office, Ashok Marg, Lucknow & the Assistant Engineer, AEN Office, Sitapur for adjudication.

2. The reference under adjudication is:

"Whether the action of North Eastern Railway in terminating the services of Shri Nath, casual Khallasi from 1-7-1984 was legal and justified? If not what relief the workman is entitled to?"

3. In brief the workman's case is that he was initially appointed as casual Khalasi on 2-3-1977 under IOW, Sitapur. He performed duties up to 30-6-1984 at Sitapur and his total working days in total service come to 1301 days. He had already completed more than 120 days continuous service before 1-7-1984 and as such he had acquired status of temporary railway servant much before 1-7-1984 and thus, his services would not be disengaged w.e.f. 1-7-1984 by DMRNER, Lucknow without following the provisions of Industrial Disputes Act, 1947. He has also stated that neither the work has stopped nor there has been shrinkage of cadre. He has alleged that no seniority list was displaced before his retrenchment. Neither any seniority list was prepared nor the first come last go rule was observed. Various juniors to the workman have been given appointment. His termination is in violation of rule 149 of Railway Establishment Code Vol. I and Section 25 F, G, H. of the I.D. Act. The workman has further stated that he made several representations to the concerned authorities but the opposite party did not give any response.

4. The workman has further submitted that he was not sufficiently literate to understand the implications of the delay. He approached to the concerned official during

intervening period but the administration did not reply. In between he also suffered from various ailments; as such he had great difficulty in collecting money for taking proper legal steps in raising industrial dispute. In such circumstances the delay in raising the dispute be condoned. He has alleged that matter has been delayed on account of the opposite party.

5. The opposite party in its written statement besides denying the claim of the workman, has raised preliminary objection regarding his initial engagement as casual labour on 2-3-1977 and has submitted that the same is not factually correct as verified from records of the concerned working unit. Thus, his claim be rejected for mentioning wrong particulars. It is further stated that the claim is lawfully time barred and not maintainable on any score. It has been submitted that due to abnormal long intervening period of time since 2-3-77 no relevant record can be possible to locate, moreover, as per directions of the Railway Board, Ministry of Railway vide their circular dated 22-11-1984 no casual labour is entitled to any relief, if he has not worked on Railway again in the preceding two complete calendar years.

6. In rejoinder, the workman besides reiterating his earlier averments made in the statement of claim, has also stated that casual labour card was issued to him wherein actual working days have not been mentioned deliberately and malafidely and their artificial breaks have been shown. Actual period of working can be verified from attendance register, live register, muster roll and pay slips. He has further stated that his name is mentioned at Sl. No. 11 in the of year 1981 for casual labourer working in Section Engineer (Works), Sitapur. In the said list working days of the workman have been verified on 24-10-96 by Section Engineer (Works) on the basis of live register in pursuance to circular of Railway Board for re-absorption.

7. In support of his claim the workman has examined himself as witness; whereas in rebuttal the management has examined Sh. S. N. Bajpai, Asstt. Divisional Engineer, NER. Both the sides have also produced documents in support of their respective cases.

8. Heard the arguments advanced by the learned representative of both the sides and perused the relevant records.

9. Learned representative on behalf of the workman has contended that from the oral statement of the workman and casual labour card issued to the workman, it is well proved that workman had worked as Khalasi from 2-3-1977. As per list of casual workers in the year 1981, the name of the workman is at Sl. No. 11 and his date of engagement has been mentioned as 20-3-77 and it has also been shown that total working days at that time to be as 1301. He has further argued that the workman had worked continuously for 120 days during the period 2-3-1977 to 30-6-84 thus, he had acquired the temporary status as per provisions of the Railway Manual. Moreover, the workman has also worked for more than 240 days in each year during the said period. Thus, his termination is

arbitrary and illegal and in violation of Section 25 F, G, H of the L.D. Act. He has further contended that on the basis of delay claim cannot be rejected. The provision of Limitation Act are not applicable in the matter of industrial dispute. Moreover, workman has explained the reasons for the delay. In support of his contentions he has also placed reliance on the following case law :—

- (i) 1981, SCC (L&S) 478 Mohan Lal V/s. M/s. Bharat Electronics Ltd.
- (ii) 1976 SCC (L&S) 132 State Bank of India V/s. N. Sundara Money.
- (iii) 1985 SCC (L&S) 975 H.D. Singh V/s. Reserve Bank of India & others.
- (iv) 2001 (88) FLR 508 Deep Chandra V/s. State of U.P. & another.
- (v) 2001 (88) FLR-274 M/s. Scooters India Ltd. V/s. M. Mohammad Yaqub and another.
- (vi) 2001 (19) LCD 116 Sitapur Eye Hospital, Faizabad and another V/s. Industrial Tribunal (II) UP. Lucknow & another.
- (vii) 1992 SCC (L & S) 611 Uol. and others V/s. Basant Lal & others.
- (viii) 1999 SCC (L&S) 1054 Ajaib Singh V/s. Sirhind Co-operative Marketing-cum- Processing Service Society Limited & another.

10. Per contra, the learned representative on behalf of the opposite party has argued that on the directives issued by the CPO, NER, Gorakhpur a list of persons was prepared on the basis laid down for re-absorption of the casual labour/substitute to ascertain if there was any use in future when need arise. 61 out of such workers were reabsorbed the workmen could not be found eligible as he was not on rolls on the date of screening, therefore, his name cannot be considered as per direction and policy of Head Quarter. He has further argued that due to large number of candidates on various quota, further screening have been kept in abeyance as per direction dated 29-3-01/20-4-01. He has further argued that the workman has abandoned his engagement himself. He has also argued that due to abnormal delay his claim is not tenable in the light of verdict of Hon'ble Supreme Court dated 13-5-93 in Civil Writ Petition No. 71/92.

11. The contention of the learned representative of the management that due to long abnormal intervening period of 25 years the claim of the workman is liable to be rejected in view of the verdict of Hon'ble Supreme Court dated 13-5-93 in Writ Petition (Civil) 71/92 Ratan Chandra Samanta and others vs. Uol. and other is not sustainable. The management has produced an uncertified copy of said judgement. Moreover the facts of the said case laws were different. This question was not under consideration whether provisions of limitation are applicable in the matter of industrial disputes. In 1999 SCC (L & S) 1054 relied by learned representative of the workman, Hon'ble Apex Court

has observed that employer's plea of delay in seeking reference unless causing real prejudice to him is not sufficient to deny relief to the workman. Hon'ble Apex Court it has further observed that :

"We provisions of Article 137 of the Limitation Act, 1963 are not applicable to the proceedings under the Industrial Disputes Act. The relief under the Act cannot be denied to the workman merely on the ground of delay. The delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone. Even in a case where the delay is shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/termination or dismissal. The court may also in appropriate cases direct the payment of part of the back wages instead of full back wages."

12. In the present case the workman has alleged that his services have been terminated in the year 1-7-1984 whereas in present reference under adjudication the industrial dispute has been raised after lapse of 14 years. The reasons given for inordinate delay that despite several representations being submitted by the workman, the concerned management of railway did not give any response and other reasons such as his financial condition, his illness and other constraints due to which he could not raise present dispute are not cogent and satisfactory. The copies of representations said to be sent to the railway authorities have not been produced. He has produced only photocopies of some UPCs, postal receipts which are not legible. Although explanation given by the workman for delay of such a long period is not plausible but in light of principle laid by the Hon'ble Apex Court, the claim of the workman may not be rejected merely on the plea of delay.

13. The questions which arise for consideration are as to whether the workman has continuously worked for more than 240 days in the preceding 12 months from the date of his alleged termination and whether he had worked continuously more than 120 days and acquired temporary status as claimed by him and whether alleged termination of the workman is unjust and illegal?

14. The workman in his statement on affidavit has stated that he was employed as casual Kahalasi on 2-3-1977 and had worked as such continuously from 2-3-77 to 30-6-84 and his services have been terminated orally w.e.f. 1-7-84 without any notice or compensation. He has further stated that he had worked for 1301 days as shown in list of casual worker in the year 1981 under Section Engineer (Works), Sitapur. To substantiate his claim he has produced his original Casual Labour card and copy of list of Casual worker working under Section Engineer (Works), NER, Sitapur in the year 1981.

15. The management witness Sh. S.N. Bajpai, Asstt. Engineer, NER, Sitapur has admitted in his cross-examination that as per record available the workman had worked from March, 77 to January, 78 for 261 days as per records and from October, 1977 to January, 1978 during four months he had worked for 119 days and during this period he remained absent for one day in October and three days in December.

16. The details of working days and period mentioned in his Casual Labour Card and Live Register are as under :—

Casual Labour Card		Live Register	
Date of initial employment 2-3-1977			
March, 77	12 days	March 77	12 day
April, 77	22 days	April, 77	22 days
May, 77	4 days	May, 77	4 days
June, 77	23 days	June, 77	23 days
July, 77	25 days	July, 77	25 days
August, 77	29 days	August, 77	29 days
September, 77	27 days	September, 77	27 days
October, 77	30 days	October, 77	30 days
November, 77	30 days	November, 77	30 days
16-12-77 to 31-8-78	1yr. 2 mth 22 days	December, 77	28 days
20-3-77 to Dec., 78	556 days	January, 78	31 days
Upto 30-6-79	1yr. 10 mth 18 days	February, 78	26 days
1-7-79 to 31-9-79	76 days	March, 78	27 days
31-10-79 to 31-12-79	48 days	April, 78	28 days
1-1-80 to 30-6-80	139 days	May, 78	24 days
Upto 31-12-80	1074 days	June, 78	30 days
1-1-81 to 31-1-81	31 days	July, 78	30 days
1-2-81 to 28-2-81	28 days	August, 78	25 days
31-1-81 to 31-1-82	31 days	September, 78	26 days
1-8-82 to 31-10-82	91 days	October, 78	27 days
1-1-84 to 30-6-84	46 days	November, 78	30 days
Total	1301 days	December, 78	22 days

17. In 1991 SCC L&S 478 Hon'ble Apex Court has held that termination simplicitor of a temporary workman, not falling within the excepted or excluded categories mentioned in Section 2 (oo) would amount to retrenchment and it immediately preceding the date of termination of service, such workman actually worked for not less than 240 days within a period of 12 months, he will be deemed to be in continuous service for one year under Section 25-B(2)(a)(ii) and termination of his services without complying with Section 25F would render the order of termination void-ab-initio. In 1976 SCC L & S 132 the Hon'ble Apex Court has held that in Section 2(oo), the words 'termination

.... for any reason whatsoever' are the key words, whatever the reason every termination spells retrenchment. In 1985 SCC (L&S) 975, Hon'ble Apex Court observed that striking off name of the Tikka Mazdoor from rolls who have worked for more than 240 days amounts to retrenchment covered by Section 25-F.

18. Thus, it is settled legal position that if a workman had worked for 240 days in preceding 12 months from date of his alleged termination, his services cannot be terminated without compliance of Section 25 F.

19. But in present case Upon a perusal of the entries made in the Casual Labour Card, it is not evident that the worker had worked for 240 days during preceding 12 months from the date of his alleged termination i.e. 1-7-84. As per entries in Casual Labour Card the workman had worked for 48 days only during said twelve months. The workman has admitted in his rejoinder that the list of casual worker working in the year 1981 in Section Engineer (Works), Sitapur was prepared on the basis of Live Register. The total period of working days shown in the said list and mentioned in the Casual Labour Card are same i.e. 1301 days. There is no allegation that entries in Live Register were incorrect. In such circumstances, this contention of the workman is not acceptable that artificial breaks have been shown deliberately to deprive him from his legitimate right. Thus, the workman has failed to prove that he had worked for 240 days in preceding twelve months from the date of his alleged termination.

20. The learned representative on behalf of the workman has contended that as per circulars of NER an open line the casual labourer is to granted temporary status on completion of 120 days of continuous service and in calculating the above period, unauthorized absence of three days and authorized absence of 20 days is not to be considered as break in casual labourer's service. He has further contended that the workman had continuously worked for 120 days but the management has deliberately shown artificial breaks in the Casual Labour Card to deprive the workman for grant of temporary status. The learned representative on behalf of the workman has vehemently argued that during period October, 77 to January, 78 the workman had continuously worked for 120 days. The management has shown artificial break of one day.

21. In 1992 SCC (L&S) 611 relied by the learned representative on behalf of the workman, Hon'ble Apex Court has observed that the casual labourer employed by railway who had continuously worked for more than 120 days are entitled to be regularized as temporary workman and railway cannot deny them temporary status on ground that they have been employed as casual labourer in a project work and not in construction work in open line as such they acquire temporary status on completion of 360 days.

22. It is not disputed that casual labourers who have worked continuously for 120 days in open line acquire temporary status and they will be entitled to rights and

privileges admissible to the temporary status railway servants as laid down in Clause XXIII of the Indian Railway Establishment Manual. Rule 149(6) of Railway Establishment Code also laid down that termination of services of temporary employee should be in terms of provisions of I. D. Act.

23. It is evident from the Casual Labour Card and entries made in the Live Register regarding working days of the workman that in between period of four months i.e. from October 77, November 77, December 77 and January, 78 the workman had worked for 30 days, 30 days, 28 days and 31 days respectively and it has also been shown that in the month of October, 77 he remained absent for one day and in the month of December, 77 he remained absent for two days. There is neither pleading nor any evidence that during said period, the workman remained on authorized leave. In rejoinder, the workman has admitted that the entries in his Casual Labour Card have been done regularly on the basis of Live Register but alleged that actual working days have not been mentioned in his card. The burden was on the workman to prove that he had been in employment of the railway not only on the days he had worked but also on the days on which he had not worked either on account of his inability or on account of his being prevented by the management from working. But above allegation seems to be incorrect. No presumption can be drawn as regard authorized absence for one day during aforementioned period from October, 77 to January, 78. Thus, the workman has failed to establish that he had continuously worked for 120 days in the said period and as such he was entitled for grant of temporary status.

24. Moreover, the workman has alleged that his services were orally terminated on 1-7-1984, but he has admitted in his cross-examination that "*Maine 30-6-84 ke baad kaam par aana band kar diya*". It is evident from his own statement that his services were not terminated.

25. In view of the above discussions, the workman has failed to prove that he had worked for 240 days in preceding twelve months from the date of his alleged termination and he has also failed to establish that he had ever worked continuously for 120 days. Consequently, he was neither entitled for any notice or retrenchment compensation nor for grant of temporary status. Thus, the workman has failed to prove his alleged oral termination in violation of Section 25 F, G & H of the I.D. Act or in contravention of any provisions of Indian Railway Establishment Manual and any action of the management was unjust or illegal. Resultantly, he is not entitled for any relief claimed by him.

26. The reference under adjudication is answered accordingly.

27. Award as above.

Lucknow, 30-6-2009

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 9 जुलाई, 2009

का.आ. 2130.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एफ. सी. आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 101/88) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-7-2009 को प्राप्त हुआ था।

[सं. एल-12/42012(6)/86-डी.वी./डी.-IV/बी]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 9th July, 2009

S.O. 2130.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.101/88) of the Industrial Tribunal, Hyderabad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on 9-7-2009.

[No. L-12/42012(6)/86-D.V/D.-IV/B]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I
AT HYDERABAD

Present : Sri K. M. Nagabhushan Rao B.A B.L Chairman
Industrial Tribunal-I

Dated this the 11th Day of June, 2009

Industrial Dispute No. 101 of 1988

BETWEEN

Sri R Janardhan Rao S/o R Malliah Shetty
Vempalyy Road, Yerraguntla (RS)
& Post 516309 Dist. Cuddapah
Andhra Pradesh

... Petitioner

And

1. The Senior Regional Manager
Food Corporation of India
Mokharam Jahi Road,
Hyderabad
2. The Secretary,
Energy Environment Science
and Technology Dept.,
Government of Andhra Pradesh
Hyderabad.

... Respondents

Appearance: Sri G. Ravi Mohan, Advocate for the
Petitioner
Sri B. G. Ravinder Reddy, Advocate for
Respondents.

AWARD

The Government of India vide its Letter No.12/42012 (6)/86-D.V/D.IV/B dated 19-10-1988 referred the following dispute to this Tribunal for adjudication.

“Whether the action of the Management of Food Corporation of India, Kurnool (A.P) in terminating the service of Sri R. Janardhan Rao is justified? If not to what relief the concerned workman is entitled?”

1. After taking the above dispute on 21-10-1988 this Tribunal had numbered the case as I D No.101/1988. The notices were issued to both parties and they have appeared before this Tribunal. While pending the dispute, the Management of Food Corporation of India carried out the matter before the Hon'ble Supreme Court in C.M.P. No. 29285/88 and obtained stay on 30-01-1989 of all further proceedings pending on this Tribunal. Subsequently in view of the letter dated 14-02-1987 enclosing the judgment of the Hon'ble Supreme Court of India vide Civil appeal No. 5178/1990 and 5179/1990 stay was vacated on 31-12-90 subject to the following order of Hon'ble Supreme Court.

“We are of the view that the impugned order of High Court should be understood as the direction to the Government to consider the matter on the merits after hearing both sides and to pass an appropriate order and not as a direction to make a reference without regard to the merits. The impugned order shall stand modified as indicated above”.

2. The Petitioner filed claims statement stating that he was appointed as watchmen on daily rate basis vide letter dated 17-03-1986 and posted to Proddutur Depot Office and he performed his duties to the entire satisfaction of his superiors. While he was working as watchmen, the Food Corporation of India, New Delhi issued a Notification dated 4-2-1976 for regularizing the services of Daily Rated and temporary Employees who were working/continuing in service on the date of notification by considering the candidates sponsored by the Employment Exchange. In the notification also stated that “provided further that such of employees who were recruited on daily rated basis for a period of less than 3 months on daily/temporary basis and whose service have been retained after allowing a periodical brake shall also be eligible to be considered for appointment against direct recruitment along with candidates sponsored by the Employment Exchange”. Though he fulfilled the conditions mentioned in the said notification, he was not considered for regularizing his services. But other similar employees have been considered and absorbs in the regular vacancies which is arbitrary and illegal. Further the petitioner was disengaged w.e.f 16-7-1997 without giving any reasons. The disengagement of the petitioner amounts to termination which is illegal and contrary to law. He was not issued with any notice before terminating him from the services. This Tribunal passed an award in the case of similarly situated employees i.e., Sri Rama Murthy, Hameed Basha

who were working since 1983 and another 20 persons, directing the Management to recruit them into services. After the award passed by this Tribunal the Petitioner approached the Asstt. Commissioner of Labour for conciliation. As there was no agreement and failure report was sent by him to the Central Government for referring the matter to this Tribunal. But the Central Government denies to refer the same. On the basis of failure report the petitioner filed a Writ Petition No 18177/87 and the Hon'ble High Court directed the Government on 01-12-1987 to make reference Under Section 10 (1) of the Industrial Dispute Act to the appropriate Tribunal. Aggrieved by it the Respondent Food Corporation of India filed a Writ Petition and the same was dismissed by the Hon'ble High Court. Thereafter the Central Government referred the present dispute to this Tribunal and while it was pending at this Tribunal the Respondent filed a SLP before of Hon'ble Supreme Court of India. The Hon'ble Supreme Court passed the above order stated supra. The Management had not brought to the notice of the Hon'ble Supreme Court about the pendency of this dispute. After passing the above order by the Hon'ble Supreme Court the Respondent Management has not taken any steps.

3. The Respondent Food Corporation of India filed a counter on 26-06-1997 stating that subject to availability of work the petitioner was engaged on casual basis as a daily rated watchman. The various allegations made in the claim statement are not correct and therefore denied. On engaging him on daily rated on casual basis, his services were never continuous. He worked only for 58 days during 17-3-1976 to 15-7-1977 as watchmen at the hired godowns at Proddutur. After due to de-hiring of the temporarily hired godown he was not employed. He was not sponsored by the Employment Exchange. He was purely appointed as temporary watchman for a short period in seasonal works. By the date of the notification dated 04-02-1976 the petitioner was not in service. As there was abnormal delay the petition is liable to be dismissed on this ground. The allegation that the petitioner made several representations to the Respondent is false. The allegation that 25F of the ID Act is violated by the Management is not correct. The allegation that his juniors allowed to continue in service is not correct. The petitioner is gainfully employed elsewhere and hence he is not eligible for any relief. The Central Government, after perusing the record, refused to refer the matter for adjudication. The reference was made by the Government by an order dated 17-10-1988 prior to the order of Hon'ble Supreme Court. Consequent to the above order, no fresh reference was made and the references become infructuous and as such the reference is liable to be set aside. The dispute raised by the petitioner is a stale one and the same is barred by limitation.

4. The petitioner himself examined as Ex. W W-1 and marked 3 documents on his behalf as Exs. W1 to W3. On the other hand the Respondent also examined Asstt.

Manager (General) in Chief and marked Exs. M-1 to M-7 on behalf of the Management, but when he was not subjected to cross examination, as he was not available, a memo was filed by the Management, withdrawing the Chief evidence of this witness and examined Manager (General) by name Sri B. Nagaratnam. However this court did not expunge either the evidence in Chief of the Asstt. Manager or the documents.

5. The matter was pending before this Tribunal for more than a decade as the parties resorted to the Hon'ble High Court and the Hon'ble Supreme Court on various occasions but finally when the matter was coming for arguments, the Respondent filed the written arguments, but the petitioner did not argue his case and hence, the case was closed as heard and perused written arguments.

6. At the outset it may be mentioned that this case is a specimen example of showing that the parties can litigate their cause of action for decades and decades. Virtually, it may be clearly mentioned that there is no reference at all. The reference made by the concerned Department invokes the Jurisdiction of this Tribunal without which the Tribunal becomes "Functionis Officio".

7. Before going to merits, it can be briefly mentioned here that when the Asstt. Labour Commissioner put in failure report on merits to the concerned Government, the Government refuses to refer the matter to this Tribunal. On this refusal the workman instead of resorting to Section 2 A (2) approached the Hon'ble High Court which directed reference to the Tribunal. The Management has taken the matter to the Division Bench in Writ Appeal No. 173/88 which was dismissed. After that, Government vide letter No. 12/42012 (6)/86-D.V/D.IV/B dated 19-10-1988 referred the matter for adjudication with the issue mentioned supra. Simultaneously the Management took the matter to the Hon'ble Supreme Court which held that the impugned order of the Hon'ble High Court should be understood as a direction to the Government to consider the matter on merits after hearing both sides but not an order directing the Government to make the reference without regards to the merits. With this opinion the Hon'ble Supreme Court modified the order of the Hon'ble High Court to that effect.

8. As a matter of fact, after the direction of the Hon'ble Supreme Court the Government should have considered the dispute on merits after hearing both the sides and should have decided whether or not to refer the matter. In this view, there is no reference at all as per the direction of the Hon'ble Supreme Court. It was rightly contended by the Management that the old reference becomes "infructuous abinitio".

9. Having adduced the evidence on behalf of both parties, brief facts can be mentioned here. The demand of the workmen, was that he was appointed as watchman, on daily wage basis vide Letter dated 17-03-1986 but the workman has not filed the said letter. His claim is based on the notification dated 04-02-1976 which was also not filed

so far. The workman contents, that as per the notification the workman appointed on daily wages and temporary who were working continuously on the date of the notification are entitled to regularization provided that they are sponsored by Employment Exchange. What the workman claims is benefit which was conferred on the daily wage workers and temporary employees by virtue of notification dated 04-02-1976 i.e., 10 years prior to his appointment. No material has been produced before this Tribunal that the notification dated 04-02-1976 is "sacrosanct" for all the times. The evidence of Management by MW-2 clearly show that this notification was implemented for those deserving employees by the time the workman was not at all working in any capacity at any place of the Management Corporation.

10. In the light of the evidence of MW-2, the workman only worked for 58 days during 17-03-1976 to 15-07-1977 and no contra evidence is forth coming to disbelieve this version. The service certificate under Ex. W -1 only gives the total period but not the actual period of 58 days and the nature of the work shown in Ex. W -1 being daily wages it lends support to the version of the Management.

11. On the aforesaid reasoning also the workman cannot claim any relief and notification dated 04-02-1976 cannot come to this rescue, as he was working with the Corporation w.e.f., 17-03-1986 notwithstanding whether the workman was or was not sponsored by the Employment Exchange. It appear that the Government rightly refused the reference as the workman do not come under preview of the operation of the notification as said earlier. Since the reference becomes infructious by virtue of the orders of the Hon'ble Supreme Court in S.L.P.No.13809/88 and no further reference being made, the jurisdiction by this Tribunal is yet to be invoked by a fresh reference. It therefore, is not necessary to discuss the above merits of the material placed before this Tribunal on non-existent reference.

12. In any view of the matter, there is no legal material to adjudicate and the workman is not entitled to any relief and even otherwise also his claim is based on a notification, 121 months prior to his engagement. Accordingly this award is passed.

Dictated to the Jr. Stenographer transcribed by her and corrected and pronounced by me in the open court on this the day of 11th day of June, 2009.

K. M. NAGABHUSHAN RAO, Chairman

APPENDEX OF EVIDENCE

Witness examined for Petitioner	Witness examined for Respondent
W.W.1: R.Janardhan Rao	M.W-1: S.Satyanarayana Rao
	M.W-2: P.Nagaratnam

Documents marked for Petitioner

- Ex W -1 : Service Certificate issued to W.W.1
- Ex W -2 : Termination Order dt 16-07-1977
- Ex W-3 : Representation of Petitioner dt 30-10-1985

Documents marked for Respondents

- Ex.M1 : Minutes of conciliation proceedings dt 19-12-1985
- Ex M2 : Copy of failure report dt 10-01-1986
- Ex M3 : Copy of proceedings dt 29-05-1987
- Ex M4 : Xerox copy of order
- Ex M5 : Copy of order in W.A.No.173/88
- Ex M6 : Xerox copy of order dt 05-02-1988 in SLP No.(Civil) 13809/88
- Ex M7 : Copy of Order dt 31-10-1990

नई दिल्ली, 9 जुलाई, 2009

का.आ. 2131.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्थ ईस्टर्न रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 74/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-7-2009 को प्राप्त हुआ था।

[सं. एल-41012/45/2000-आई.आर. (बी.-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 9th July, 2009

S.O. 2131.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/2000) of Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the the management of North Eastern Railway and their workmen, received by the Central Government on 9-7-2009.

[No. L-42012/45/2000-IR-(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW PRESENT

N.K. PUROHIT, PRESIDING OFFICER

I.D. NO.74/2000

Ref. No. L-41012/42/2000/IR(B-I) dated: 17-08-2000

BETWEEN

Shri Munna Lal S/o Shri Lau
Dharaincha, Kharabad Sitapur

AND

1. The Divisional Railway Manager
North Eastern Railway
DRM Office, Ashok Marg
Lucknow
2. The Assistant Engineer
AEN Office Sitapur

AWARD

30-06-2009

1. By order No. L-41012/42/2000/IR(B-I) dated: 17-08-2000 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Munna Lal S/o Lau Dharaincha Kharabad, Sitapur and the Divisional Railway Manager, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Assistant Engineer, AEN Office, Sitapur for adjudication.

2. The reference under adjudication is:

"Whether the action of North Eastern Railway in terminating the Services of Shri Nath, Casual Khallasi from 01-07-1984 was legal and justified? If not what relief the workman is entitled to?"

3. In brief, the workman's case is that he was initially appointed as Casual Khalasi on 20-02-78 under IOW, Sitapur. He performed duties up to 31-03-1985 at Sitapur and his total working days in total service come to 2219 days. He has already completed more than 120 days continuous service before 01-04-1985 and as such he has acquired status of temporary railway servant much before 01-04-1985 and thus, his services would not be disengaged w.e.f 01-04-1985 by DRM, NER, Lucknow without following the provisions of Industrial Disputes Act, 1947. He has also stated that neither the work has stopped nor their has been shrinkage of cadre. He has alleged that no seniority was displaced before his retrenchment. Neither any seniority list was prepared nor the first come last go rule was observed. Various juniors to the workman have been given appointment. His termination is in violation of Rule 149 of Railway Establishment Code Vol. I and Section 25 F, G, H of the I.D. Act. The workman has further stated that he made several representations to the concerned authorities but the opposite party did not give any response.

4. The workman has further submitted that he was not sufficiently literate to understand the implications of the delay, therefore, he approached to concerned officials during intervening period but the administration did not reply. In between he also suffered from various ailments; as such he had great difficulty in collecting money for taking proper legal steps in raising industrial dispute. In such circumstances the delay in raising the dispute be

condoned. He has alleged that matter has been delayed on account of the opposite party.

5. The opposite party in its written statement besides denying the claim of the workman, has raised preliminary objection regarding his initial engagement as casual labour on 20-02-78 and has submitted that the same is not factually correct as verified from records of the concerned working unit. Thus, his claim be rejected for mentioning wrong particulars. It is further stated that the claim is lawfully time barred and not maintainable on any score. It has been submitted that due to abnormal long intervening period of time since 20-02-78 no relevant record can be possible to locate, moreover, as per directions of the Railway Board, Ministry of Railway vide their circular dated 22-11-1984 no casual labour is entitled to any relief if he has not worked on Railway again in the preceding two complete calendar years.

6. In rejoinder, the workman besides reiterating his earlier averments made in the statement of claim, has also stated that Casual Labour Card was issued to him wherein actual working days have not been mentioned deliberately and malafidely and their artificial breaks have been shown. Actual period of working can be verified from attendance register, live register, muster roll and pay slips. He has, further stated that his name is mentioned at SI. No. 40 in the list of year 1981 for casual labourer working in Section Engineer (Works), Sitapur. In the said list working days of the workman has been verified on 24-10-96 by Section Engineer (Works) on the basis of live register in pursuance to circular of Railway Board for re-absorption. In rejoinder, the workman besides reiterating his earlier averments.

7- In support of his claim the workman has examined himself as witness; whereas in rebuttal the management has examined Sh. S.N. Bajpai, Asstt. Divisional Engineer, NER. Both the sides have also produced documents in support of their respective cases.

8. Heard the arguments advanced by the learned representative of both the sides and perused the relevant records.

9. Learned representative on behalf of the workman has contended that from the oral statement of the workman and Casual Labour Card issued to the workman, it is well proved that workman had worked as Khalasi from 20-02-78. As per list of casual workers in the year 1981 the name of the workman is at SI. No 40 and his date of engagement has been mentioned as 20-02-78 and it has also been shown that total working days to be 694. He has further argued that the workman had worked continuously for 120 days during the period 20-02-78 to 31-03-85 thus; he had acquired the temporary status as per provisions of the Railway Manual. Moreover, the workman has also worked for more than 240 days in each year during the said period. Thus, his termination is arbitrary and illegal and in violation of Section 25 F, G, H of the I.D. Act. He has further contended

that on the basis of delay claim cannot be relieved. The provision of Limitation Act are not applicable in the matter of industrial dispute. Moreover, workman has explained the reasons for the delay in support of his contention he has placed reliance on the following case law :

- (i) 1981 SCC (L&S) 478 Mohan Lal vs. M/s. Bharat Electronics Ltd.
- (ii) 1976 SCC (L&S) 132 State Bank of India vs. N. Sundara Money.
- (iii) 1985 SCC (L&S) 975 H.D. Singh vs. Reserve Bank of India & others.
- (iv) 2001 (88) FLR 508 Deep Chandra vs. State of U.P. & another.
- (v) 2001 (88) FLR 274 M/s. Scooters India Ltd. vs. M. Mohammad Yaqub & another.
- (vi) 2001 (19) LCD 116 Sitapur Eye Hospital, Faizabad & another vs. Industrial Tribunal (II) UP, Lucknow & another.
- (vii) 1992 SCC (L&S) 611 Uol & others vs. Basant Lal & others.
- (viii) 1999 SCC (L&S) 1054 Ajaib Singh vs. Sirhind Co-operative Marketing-cum-Processing Service Society Limited & another.

10. Per contra, the learned representative on behalf of the opposite party has argued that on the directives issued by the CPO, NER, Gorakhpur a list of persons was prepared on the basis laid down for re-absorption of the casual labour/substitute to ascertain if there was any use in future when need arise, 61 out of such workers were reabsorbed, the workman could not be found eligible as he was not on rolls on the date of screening, therefore, his name cannot be considered as per direction and policy of Head Quarter. He has further argued that due to large number of candidates on various quota, further screening have been kept in abeyance as per direction dated 29-3-01/20-4-01. He has further argued that the workman has abandoned his engagement himself. He has also argued that due to abnormal delay his claim is not tenable in the light of verdict of Hon'ble Supreme Court dated 13-5-93 in Civil Writ Petition No. 71/92.

11. The contention of the learned representative of the management that due to long abnormal intervening period of 25 years, the claim of the workman is liable to be rejected in view of the verdict of Hon'ble Supreme Court dated 13-5-93 in Writ Petition (Civil) 71/92 Ratan Chandra Sammanta & others vs. Uol & others is not sustainable. The management has produced an uncertified copy of said judgment. Moreover, the facts of the said case laws were different. This question was not under consideration whether provisions of limitation are applicable in the matter of industrial disputes. In 1999 SCC (L&S) 1054 relied by

learned representative of the workman, Hon'ble Apex Court has observed that employer's plea of delay in seeking reference unless causing real prejudice to him is not sufficient to deny relief to the workman. Hon'ble Apex Court has further observed that :

"The provisions of Article 137 of the Limitation Act, 1963 are not applicable to the proceedings under the Industrial Disputes Act. The relief under the Act cannot be denied to the workman merely on the ground of delay. The delay if raised by the employer is required to be proved as a matter of fact by showing the real prejudice and not as a merely hypothetical defence. No reference to the Labour Court can be generally questioned on the ground of delay alone. Even in a case where the delay is shown to be existing, the tribunal, labour court or board, dealing with the case can appropriately mould the relief by declining to grant back wages to the workman till the date he raised the demand regarding his illegal retrenchment/termination or dismissal. The court may also in appropriate cases direct the payment of part of the back wages instead of full back wages."

12. In the present case the workman has alleged that his services have been terminated in the year 01-05-1985 whereas in present reference under adjudication the industrial dispute has been raised after lapse of 14 years. The reasons given for inordinate delay that despite several representations being submitted by the workman, the concerned management of railway did not give any response and other reasons such as his financial condition, his illness and other constraints due to which he could not raise present dispute are not cogent and satisfactory. The copies of representations said to be sent to the railway authorities have not been produced. He has produced only photocopies of some UPCs, postal receipts which are not legible. Although explanation given by the workman for delay of such a long period is not plausible, but in light of principle laid by the Hon'ble Apex Court, the claim of the workman may not be rejected merely on the plea of delay.

13. The questions which arise for consideration are as to whether the workman has continuously worked for more than 240 days in the preceding 12 months from the date of his alleged termination and whether he had worked continuously more than 120 days and acquired temporary status as claimed by him ?

14. The workman in his statement on affidavit has stated that he was employed as casual kahalasi on 20-01-78 and had worked as such continuously from 20-02-78 to 30-4-85 and his services have been terminated orally without any notice or compensation w.e.f. 01-05-1985. He has further stated that he had worked for 2219 days as shown in list of casual worker in the year 1981 under Section Engineer (Works), Sitapur. To substantiate

his claim he has produced his original Casual Labour Card and copy of list of year 1981 pertaining to Casual worker working under Section Engineer (Works), NER, Sitapur.

15. The management witness Sh. S.N. Bajpai, Asstt. Engineer, NER, Sitapur has admitted in his cross-examination that as per record available the workman had worked from 20-2-78 to 30-6-79 and upto 15-10-79 for 01 year 02 months and 18 days.

16. The details of working days and period mentioned in his Casual Labour Card is as under :

Casual Labour Card			
Date of initial employment 20-02-1978			
From	To	Period	Total days
20-2-78	15-3-78	15 days	
1-5-78	31-5-78	31 days	
1-6-78	30-6-78	30 days	
1-7-78	15-7-78	15 days	
		Total upto 31-12-78	0 yr 7 mth 23 days
		Total upto 28-2-79	0 yr 9 mth 19 days
		Total upto 30-6-79	346 days
			0 yr 11 mth 16 days
1-7-79	15-10-79	97 days	
		Total upto October, 79	1 yr 2 mth 18 days
		Total upto 1-1-80	1 yr 3 mth 2 days (457 days)
1-1-80	30-4-80	87 days	
		Total upto 30-4-80	1 yr 5 mth 27 days
16-8-82	15-10-82	60 days	
25-5-84	15-7-84	52 days	
16-3-85	31-3-85	16 days	
1-4-85	30-4-85	22 days	

17. In 1991 SCC L&S 478 Hon'ble Apex Court has held that termination simpliciter of a temporary workman, not falling within the excepted or excluded categories mentioned in Section 2 (oo) would amount to retrenchment and if immediately preceding the date of termination of service, such workman actually worked for not less than 240 days within a period of 12 months, he will be deemed to be in continuous service for one year under Section 25-B(2)(a)(ii) and termination of his services without complying with Section 25 F would render the order of termination void-ab-initio. In 1976 SCC L&S 132 the Hon'ble Apex Court has held that in Section 2(oo), the words 'termination..... for any reason whatsoever' are the key words, whatever the reason, every termination spells retrenchment. In 1985 SCC (L&S) 975, Hon'ble Apex Court observed that striking off name of the Tikka Mazdoor from rolls who have worked for more than 240 days amounts to retrenchment covered by Section 25-F.

18. Thus, it is settled legal position that if a workman had worked for 240 days in preceding 12 months from date of his alleged termination, his services cannot be terminated without compliance of Section 25 F.

19. But in the present case upon a perusal of the entries made in the Casual Labour Card, it is not evident that the worker had worked continuously for 240 days during preceding 12 months from the date of his termination i.e. 01-05-85. As per entries in Casual Labour Card, the workman had worked for 90 days only during said twelve months. Thus, the workman has failed to prove that he had worked for 240 days in the said period.

20. The learned representative on behalf of the workman has contended that as per circulars of NER, an open line the casual labourer is to granted temporary status on completion of 120 days of continuous service and in calculating the above period, unauthorized absence of three days and authorized absence of 20 days is not to be considered as break in casual labourer's service. He has further contended that the workman had continuously worked for 120 days but the management has deliberately shown artificial breaks in the Casual Labour Card to deprive the workman for grant of temporary status. He has further contended that during period 01-05-78 to 31-8-78 the workman had worked for 123 days and it should be presumed that he had worked continuously for 120 days during said period.

21. In 1992 SCC (L&S) 611 relied by the learned representative on behalf of the workman, Hon'ble Apex Court has observed that the casual labourer employed by railway who had continuously worked for more than 120 days are entitled to be regularized as temporary workman and railway cannot deny them temporary status on ground that they have been employed as casual labourer in a project work and not in construction work in open line as such they acquire temporary status on completion of 360 days.

22. It is not disputed that casual labourers who have worked continuously for 120 days in open line acquire temporary status and they will be entitled to rights and privileges admissible to the temporary status railway servants as laid down in Clause XXIII of the Indian Railway Establishment Manual. Rule 149(6) of Railway Establishment Code also laid down that termination of services of temporary employee should be in terms of provisions of I. D. Act.

23. It is evident from the entries in Casual Labour Card of the workman that he had not continuously worked for 120 days within a period of four months. This contention of the learned representative on behalf of the workman is not sustainable that management had deliberately not mentioned the actual working days and artificial breaks

have been shown to deprive the workman for his legitimate rights. The workman himself has pleaded in his rejoinder that entries in his Casual Labour Card had been made on the basis of Live Register. He has not alleged that his actual working days were not mentioned in the said registers. Further, he has never represented regarding entries in respect of working days in his card. He has not produced any receipt or any other document or oral evidence to establish that during alleged breaks which are said to be artificial break, he was on authorized leave or he had actually worked on those days.

24. This contention of the learned representative on behalf of the workman is also not acceptable that as per Casual Labour Card the workman had worked for 123 days during period 01-05-78 to 21-08-78 thus, it should be presumed that he had continuously worked for 120 days during said period. The workman's working days from 20-02-78 to 31-12-78 have been shown as 07 months 23 days, out of these working days he had worked for 15 days during 20-02-78 to 15-03-78, 31 days in May, 78, 30 days in June, 78, 15 days in July, 78; but it is not shown how many days he had actually worked in August, 78 and remaining months upto December, 78. The burden was on the workman to prove that he had remained in the employment of the management not only on the days he had worked but also on the days on which he had not worked either on account of his inability or on account of his being prevented by the employer for working.

25. This contention of the learned representative on behalf of the workman is also devoid of any force that since Live Register have not been produced by the management, an adverse inference should be drawn against the management. Upon a perusal of the statement of the management witness it is evident that at the time of examination of management witness, Casual Labour Register for the period May, 78 to December, 78 was produced. As regard remaining period the case of the management is that after lapse of period of over 25 years the records could not be located. As pointed out earlier the workman has failed to explain inordinate delay in raising the industrial dispute. Apart from this the workman has admitted in his rejoinder that list of casual worker working in Section Engineer (Works), Sitapur in the year 1981 was prepared in year 1996 and his name is mentioned at serial No. 40. He has also pleaded that said list was prepared on the basis of entries in the Live Register and other record. The total period of working days shown in the above list and mentioned in the Casual Labour Card are same i.e. 694. He has not alleged that number of working days in the said list or in the Register on the basis of which the list was prepared, were not mentioned correctly. He himself has produced the said list to substantiate his claim in such circumstances, if the management has failed to produce the Casual Labour Register or Live Register for remaining period, no adverse presumption can be drawn against the management.

26. The initial burden was on the workman to prove that he had continuously worked for 120 days and thus he was entitled for grant of temporary status. Unless the workman proves his claim, the opposite party cannot be called upon to disprove it. As discussed above the workman has failed to prove that he had ever worked continuously for 120 days during 20-2-78 to 30-4-85.

27. In view of the above discussions, the workman has failed to prove that he had worked continuously for 240 days in preceding twelve months from the date of his alleged termination and he has also failed to establish that he had ever worked for 120 days. Thus he was neither entitled for any notice or retrenchment compensation. The workman has also failed to prove that his services have been terminated in violation of Section 25 F, G & H or in contravention of any provisions of Railway manual and any action of the management was unjust or illegal. Resultantly he is not entitled for any relief claimed by him.

28. The reference under adjudication is answered accordingly.

29. Award as above.

Lucknow
30-6-2009

N. K. PUROHIT, Presiding Officer

नई दिल्ली, १५ जुलाई, २००९

का.आ. २१३२.-औद्योगिक विवाद अधिनियम, १९४७ (१९४७ का १४) की धारा १७ के अनुसरण में, केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चण्डीगढ़ के पंचाट (संदर्भ संख्या १०/२००८) को प्रकशित करती है, जो केन्द्रीय सरकार को १५-७-२००९ को प्राप्त हुआ था।

[सं. एल-१२०१२/५५/२००८-आईआर (बी.-११)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th July, 2009

S.O. 2132.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 10/2008) of Central Government Industrial Tribunal-cum-Labour Court, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab and Sind Bank and their workmen, which was received by the Central Government on 15-7-2009.

[No. L-12012/55/2008-(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I
CHANDIGARH**

Case No. I.D. 10/2008

Sh. Tarlochan Singh Bhogal, Through Shri J.P. Singh,
Punjab and Sind Bank Federation, 70/3, Mohalla Bari Sarkar,
Anandpur Sahib, Ropar. ...Applicant

Versus

The General Manager, (Personnel), Punjab & Sind Bank,
21, Rajinder Place, New Delhi. ...Respondent

APPEARANCES

For the workman : Workman in person

For the management : Shri I. P. Singh

AWARD

Passed on 19th of March 2009

Central Government vide-notification No.L-12012/55/
2008-IR(B-II), dated 5-2-2009, has referred the following
dispute to this Tribunal for adjudication :

“Whether the action of the management of Punjab &
Sind Bank by issuing orders dated 15-10-2007 for
proposed punishment for dismissal without notice
is legal & justified? If not, what relief the workman is
entitled to and to what extend?”

2. Case fixed today for filing of claim statement by
the workman. Workman today moved an application for
amendment in the reference to the effect that workman
never challenged the order dated 15-10-07 before the
Assistant Labour Commissioner, Chandigarh and he issued
the demand notice to release two stage of scale of pay
which was stopped by the management after conducting
an enquiry. Workman today also made a statement on oath
that he has not raised any industrial dispute through
demand notice before the ALC© Chandigarh regarding
his dismissal. In view of the above, it appears that present
reference has been made by the Ministry of Labour wrongly
and the same is hereby returned as such to the Central
Govt. without passing any award as the workman as stated
above never challenged his dismissal order before the ALC
or any other authority. This Tribunal has no power to amend
the reference. Accordingly reference is returned to Central
Govt. for necessary amendment Central Govt. be informed.
File be consigned.

Chandigarh
19-3-2009

G. K. SHARMA, Presiding Officer

नई दिल्ली, 15 जुलाई, 2009

का.आ. 2133.—औद्योगिक विवाद अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के
प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध
में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/त्रम न्यायालय, इरनाकुलम के पंचाट (संदर्भ संख्या
63/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-7-2009
को प्राप्त हुआ था।

[सं. एल-12011/08/2006-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th July, 2009

S.O. 2133.—In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the Central
Government hereby publishes the award (Ref. No. 63/2006)
of Central Government Industrial Tribunal-cum-Labour
Court, Ernakulam now as shown in the Annexure in the
Industrial Dispute between the management of Canara
Bank and their workman, which was received by the Central
Government on 15-7-2009.

[No. L-12011/08/2006-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri.P.L.Norbert, B.A., LL.B., Presiding Officer
(Wednesday the 1st day of July, 2009/10th Asadha, 1931)

I.D. 63/2006

Union : The State Secretary,
Canara Bank Employees' Union,
P.Balakrishna Menon Smarakom,
Ambujavilasom Road,
Thiruvananthapuram - 695 001.
Adv. Sri. Renjit Thampan.

Management : The General Manager,
Canara Bank, Central Office,
Trivandrum -1.

By Adv. M.P.Sreekrishnan.

This case coming up for hearing on 24-06-2009, this
Tribunal-cum-Labour Court on 01-07-2009 passed the
following.

AWARD

This is a reference made under Section 10(1)(d) of
Industrial Disputes Act. The reference is :

“Whether the action of the management of Canara
Bank in terminating the services of Smt. R. Sundari
and not considering her for regular employment with
them is fair and justifiable? If not what relief she is
entitled to?”

2. The facts of the case in brief are as follows:- Smt.
Sundari was a Part-time sweeper of Kanhangad branch of
Canara bank. She was working on daily wage from
20-11-2003. A vacancy had arisen while the permanent Part-
time sweeper was compulsorily retired on 05-10-2004.
According to the union Smt.Sundari had worked

continuously for more than 240 days during 2003-2004 itself. The procedure hitherto followed by the bank was to absorb casual part-time sweepers when permanent vacancies arise. There are several instances of such absorption of part time sweepers. However the bank initiated steps to recruit another candidate sponsored by Employment Exchange. This is an unfair labour practice and a departure from the procedure so far followed.

3. According to the management the claimant was only a casual labourer working in leave vacancies of permanent part-time sweeper on daily wage basis. When permanent vacancy arose due to compulsory retirement of permanent part-time sweeper on 05-10-2004 the management had called for a list of candidates from employment exchange for the purpose of recruitment as per the procedure for recruitment. The claimant was not eligible to be considered for recruitment as she did not conform to the norms criteria. The claimant is not a person similarly situated like part-time sweepers who were absorbed in permanent vacancies. She is not entitled for permanent appointment.

4. In the light of the above contentions the only point that arises for consideration is :

Is the worker entitled for absorption?

5. The evidence consists of the oral testimony of WW 1 and documentary evidence of Exts.W1 to W4 on the side of the workman, MW1 and Exts.M1 to M3 on the side of the management and Court Exhibit Ext.XI.

6. **The Point :—**It is not disputed that the worker had joined service of the bank as casual part-time sweeper on 20-11-2003. It is also not disputed that a permanent vacancy had arisen due to the compulsory retirement of permanent part-time sweeper Sri. K. Pramodkumar on 5-10-2004. The worker continued to work in that vacancy. However the bank called for a list of candidates from employment exchange for the purpose of filling up the vacancy. The list did not include the name of the worker. According to the management she was not eligible to be considered for recruitment. Ext.M1 is the recruitment norms. As per that for absorption the age limit is 18 to 26 years with 5 years relaxation for SC/ST candidates, 3 years for Ex-servicemen and 10 years for the physically handicapped. The union office bearer WW 1 admits that the year of birth of the worker is 1976. If so, when permanent vacancy arose on 05-10-2004 she was aged 28 years. The union has no case that she is a SC/ST candidate in order to get 5 years' relaxation. As per norms the Deputy General Manager has the discretion to relax age. But it can be done only when part-time sweeper is engaged on consolidated wages (Ext.M 1). WW1 (page-3) admits that the worker was paid for the days she worked only. That means she was working on daily wage basis and paid only for the days she had worked and not on consolidated wages. Therefore she was not eligible for relaxation of age. As per the norms she

should have been within the age limit of 18-26 on 5-10-2004. But she had crossed that age and hence she was disqualified for consideration for recruitment.

7. The educational qualification prescribed as per Ext.M 1 norms is 5th standard pass and up to maximum 9th standard, but not a pass in 9th standard. WW1 admits (page-4) that the worker has studied up to SSLC but failed in the examination. There is no provision in Ext.M 1 to relax educational qualification. Therefore she is also ineligible for recruitment due to over qualification. Hence the management was not in a position to consider her candidature for the purpose of absorption.

8. It is strongly contended by the learned counsel for the union that similar part-time sweepers were absorbed in regular vacancies in the same branch and other branches of Canara Bank. The instances are those of Smt. Liza of the same branch, Smt.Savithri of Kodungallur Branch, Smt. Rosa of Kunnankulam Branch and Smt. Theresa. To substantiate the contention the union has produced Exts.W1 and 2. Exts.W1 and W2 are two awards of this court concerning Smt.Bindu, Ammukutty, Sulochana and Mohini part-time sweepers of Canara Bank. As per the awards all the four casual part-time sweepers were directed to be absorbed by the bank. But it is admitted by WW 1 that these awards are under challenge in O.Ps. before the Hon'ble High Court of Kerala and further steps for implementation of the award are stayed. Ext.W4 is an interim order of High Court not to engage any person as part-time sweeper in Kaipamangalam Branch in the place of Smt.Lalitha, who was retrenched. Therefore the findings in the awards cannot be taken into consideration at this stage to hold that the procedure followed by the bank is to absorb casual part-time sweepers.

9. Though there is a contention by the management that steps for recruitment to fill the post of part-time sweepers has to be done by calling for a panel of candidates from the employment exchange the recruitment norms, Ext. M 1 page 2 Clause (e) says that it is not necessary to approach employment exchange for sponsoring candidates to fill the vacancy of part-time sweeper at Rural/Semi-Urban Branches. Kanhangad branch is a rural branch and hence it is not compulsory to recruit through employment exchange. That apart S.3 of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 says that the Act does not apply to vacancies in any employment to do unskilled office work. Thus recruitment through employment exchange is not essential for filling up vacancies of Part-time sweepers.

10. It was also contended by the learned counsel for the management that the union is incompetent to represent the worker. The reason is that the worker is not a member of the union. It is admitted by WW1 that the worker is not a union member. The union represents permanent workers. But the fact that the worker concerned is not a member of

the union will not stand in the way of the union in espousing the cause of a casual employee of the same bank.

11. But in the light of the fact that the worker does not conform to the norms for recruitment, she is not entitled for absorption. Now she is continuing on the basis of the direction of the Assistant Labour Commissioner as casual part-time sweeper. However it is the discretion of the bank to continue her as such or not.

12. According to the union Smt. Sundari had worked continuously for more than 240 days in a calendar year. However the management does not admit continuous service. According to the management in the vacancy of permanent part-time sweeper along with Sundari some other casual workers were also working. Ext.X1 is payment register wherein wages paid to casual workers are recorded. It is pointed out by the learned counsel for the management that as per Ext.X1 Smt. Kavitha had worked on 21-11-2003 and Sri. Nagendran on 12-04-2004 and 19-04-2004 in the leave vacancy of Pramodkumar. Since the worker is not retrenched it is unnecessary for this court to consider now whether the service was continuous for a period of 240 days or not.

In the result an award is passed finding that the action of the management in not absorbing Smt. Sundary in service is legal and justified and she is not entitled for any relief.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 1st day of July, 2009.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Union.

WW1 - 16-06-2009 Shri.C.D.Josson.

Witness for the Management

MW1 19-06-2009 Shri.Harinarayanan.

Exhibits for the Union

- W1 - Copy of the Award in I.D.4 & 5/2005.
- W2 - Copy of the award in C.R.3 & 4/2004.
- W3 - Letter dated 31-07-2007 issued by the management.
- W4 - Order in WPC No.24041/2007 (K) dated 7-8-2007 of High Court of Kerala, Ernakulam.

Exhibits for the Management

- M1 - 23-12-1993 Copy of letter from the Assistant General Manager, Personnel Management Section Personal

& Investment Wing, Head Office, Bangalore regarding recruitment norms for PTEs & other related guidelines.

- M2(a) - 05-01-2005 Indent for eligible candidates for filling up of vacancy of Part-time Employee.
- M2 (b) - 11-01-2005 Requisition form for notification of vacancies.
- M2(c) - 19-04-2005 Indent for eligible candidates for filling up of vacancy of Part-time employee dated.
- M2(d) - 27-07-2005 Letter from the Employment Officer to the Manager, Canara Bank regarding vacancy P.T. Sweeper.
- M2 (e) - 23-08-2005 Letter from the Employment Exchange Officer to the Manager, Canara Bank, Kanhangad Branch along with a list of candidates.
- M3 - Proceedings of Conciliation Officer.

Court Exhibit

Ext. X1 - Payment Register.

नई दिल्ली, 15 जुलाई, 2009

का.आ. 2134.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एर्नाकुलम (कोच्चिन) के पंचाट (संदर्भ संख्या 29/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-7-2009 को प्राप्त हुआ था।

[सं. एल-12011/09/2007-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th July, 2009

S.O. 2134.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 29/2007) of the Central Government Industrial Tribunal/Labour Court, Ernakulam (Kochin) now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 15-07-2009.

[No. L-12011/09/2007-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri P. L. Norbert, B. A., LL.B., Presiding
Officer

(Monday the 29th day of June, 2009, 8th Asadha, 1931)

I. D. 29/2007

Union : The General Secretary,
Bank of Maharashtra Employees'
Union, Central Office, 45/47
Mumbai Samachar Marg, Fort,
Mumbai-400 023.

Adv. Sri Manoj R. Nair.

Management : The Assistant General Manager,
Bank of Maharashtra, No. 4,
Sivaganam Road, T. Nagar,
Chennai-600 017.

By Adv. P. P. Sudheer.

This case coming up for hearing on 24-06-2009,
this Tribunal-cum-Labour Court on 29-06-2009 passed
the following.

AWARD

This is a reference made under Section 10(1)(d) of
Industrial Disputes Act. The reference is :

"Whether the demand of the Bank of Maharashtra
Employees' Union for absorption of Smt. Suja
Abraham, Part-time sweeper on daily basis, as part
time sweeper on regular basis in the bank's service
w.e.f. 01-10-2003 is justified? If so, to what relief the
worker is entitled?"

2. The facts of the case in brief are as follows: The
claimant Smt. Suja Abraham has been working in Bank of
Maharashtra at Thirunakkara Branch (Kottayam) from
1-10-2003. According to the claimant she was working in a
permanent vacancy. The work is of permanent nature. As
per the recruitment norms temporary employees who have
worked continuously for more than 240 days in a calendar
year is eligible for absorption. There are several instances
of such absorption. But ignoring the rights of the work-
man the bank attempted to appoint an outsider. Hence this
industrial dispute.

3. According to the management the claimant was
working as temporary Part time sweeper on leave vacancy
of permanent Part time sweeper intermittently. The worker
was age barred at the time of initial engagement itself. The
bank has not appointed anyone violating the norms. The
worker is not eligible for consideration for absorption.

4. In the light of the above contentions the only
point that arises for consideration is :

Whether the worker is eligible for absorption?

5. The evidence consists of Exts. M1 and M2 alone.

6. The Point : It is an admitted fact that the work-
man was engaged initially on 01-10-2003. She is still work-
ing as casual part time sweeper. It is also not seriously
disputed that she has been in service continuously for
more than 240 days in a calendar year. But that will not
confer on her any right for absorption. There are norms
for permanent appointment of part-time sweepers. Ext.
M2 is a booklet written by the Deputy General Manager,
Personnel regarding service conditions of Part-time sub
staff including recruitment norms. Para 5 deals with pro-
cedure for appointment of Part-time sweepers. The age
limit is minimum 18 years and maximum 28 years with
relaxation of upper age by 5th years for SC/ST candidates
and 3 years for OBC candidates. The educational qualifi-
cation is minimum 6th standard pass and maximum SSC or
equivalent examination without a pass. Ext. M1 is copy of
SSC of the worker. Date of birth is 15-04-1972. That means
at the time of initial engagement of the worker on
01-10-2003 she was aged 31 years and six months. She is
an OBC candidate and hence her upper age could be 31.
However she had crossed 31 years also at the time of first
engagement, but admittedly the bank can relax the age
criteria as per circular dated 15-05-2006 taking into ac-
count the age as on the date of first appointment as tem-
porary Part time sweeper. This age relaxation provision
was applicable to all vacancies that arose prior to
01-04-2006. But even for this relaxation the worker was
not eligible because she has crossed the age of 31 years
on the date of initial engagement. The newspaper adver-
tisement inviting applications for recruitment of perma-
nent Part time sub staff was made on 05-11-2004. At that
time she was aged 32 years nine months and on the date
of initial engagement 31 years 6 months. With regard to
educational qualification there is no bar as she has not
passed 10th standard. However due to the age bar she is
not eligible for absorption.

In the result an award is passed finding that the de-
mand of the union for absorption of Smt. Suja Abraham,
temporary part-time sweeper is not legal and justified and
she is not entitled for any relief. However this finding may
not be a bar for the management to continue her in service
as temporary part time sweeper.

The award will come into force one month after its
publication in the official gazette.

Dictated to the Personal Assistant, transcribed and
typed by her, corrected and passed by me on this the 12th
day of June, 2009.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Union	— NIL
Witness for the Management	— NIL
Exhibit for the workman	— NIL

Exhibit for the Management

- Ext. M1 —Photocopy of the SSC Book of the worker.
 Ext. M2 —A booklet written by the Deputy General Manager, Personnel regarding service conditions of Part time sub staff.

नई दिल्ली, 15 जुलाई, 2009

का.आ. 2135.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट (संदर्भ संख्या 20/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-7-2009 को प्राप्त हुआ था।

[सं. एल-12013/05/1998-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 15th July, 2009

S.O. 2135.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 20/2009) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 15-07-2009.

[No. L-12013/05/1998-IR (B-II)]

RAJINDER KUMAR, Desk Officer
ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Friday, the 3rd July, 2009

Present: A.N. Janardanan,
Presiding Officer

Industrial Dispute No. 20/2009

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN

The General Secretary : Petitioner/I Party
Indian Bank Employees'
Association
250, Lingi Street
Chennai-600001

And

The Zonal Manager : Respondent/
Zonal Office, Indian Bank II Party
24/2, Ethiraj Salai
Chennai-600105

APPEARANCE

For the Petitioner : Sri R. Sekar,
Authorized Representative
For the 1st Management : M/s. T.S. Gopalan & Co.

AWARD

The Central Government, Ministry of Labour vide its order No. L-12013/5/1998-IR (B-II) dated 23-12-2009 referred the following Industrial Dispute to this Tribunal for adjudication :

The schedule mentioned in that order is :

"Whether the demands of the Union for absorption of Shri T.N. Surendran into permanent service in the cadre of Sub-Staff in Indian Bank, Chennai, payment of arrears of wages and eligible prorata wages from the date of his initial engagement in the Indian Bank is legal and justified? What relief the concerned workman is entitled to?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as I.D. 20/2009. Pursuant to notice under RPAD. the petitioner appeared in person and the Respondent through Advocate and the petitioner filed Claim Statement and no counter Statement was filed by the Respondent.

3. The Claim Statement in a nutshell is as follows :

The petitioner while was engaged in the Otteri branch of the Respondent/Bank as temporary employee since 1994 with a continuous service of more than 240 days and thus entitled to regularization in the service was not regularized. Thereupon as per order dated 24-10-2008 of the High Court of Chennai, the reference was caused to be made to this Tribunal by the Ministry of Labour.

4. No counter statement was filed by the Respondent. While the reference stood posted for filing the counter statement of the Respondent, the petitioner appeared and filed a petition seeking to withdraw the claim and the I. D. Copy of the petition was served on the opposite side. Heard both sides.

5. Points for determination are :

- (i) Whether the demand for absorption and payment of arrears wages to the petitioner is legal and justified?
- (ii) To what relief the petitioner is entitled?

Point No. 1

6. It is submitted that the workman whose cause is espoused by the Union had got a job and he is therefore not interested to press for his regularization under the Respondent and that he wants the claim under the I. D. referred to be treated as withdrawn and to have the reference closed. Regret is also expressed for having brought the indulgence of the Tribunal in the matter. The other side has no objection to the withdrawal of the claim. Understandably the question referred to does not call for being

answered in view of the fact that the petitioner has sought to withdraw the claim. So much so the petitioner has also not filed any documents, list of reliance and witnesses in order to see to establish his claim. Hence it remains unestablished as to whether but for the withdrawal of his claim he would have been entitled to absorption in the permanent service in the cadre of sub-staff under the Respondent, payment of arrears of wages and eligible pro-rata wages from the date of his initial engagement. Therefore the reference is only to be answered against the petitioner and I do so.

Point No. 2

7. The petitioner is therefore not entitled to any relief.

8. Thus the reference is answered accordingly.

(Dictated to the PA, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 3rd July, 2009).

A.N. JANARDANAN, Presiding Officer

Witnesses Examined :

For the I Party/Petitioner : None

For the II Party/Management : None

Documents Marked:

On the Petitioner's side

Ex. No.	Date	Description
	Nil	

On the Management's side

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 15 जुलाई, 2009

का.आ. 2136.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अप म्यायालय संख्या 2, मुंबई के पंचाट (संदर्भ संख्या 2/43/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-7-2009 को प्राप्त हुआ था।

[सं. एल-12011/129/2003-आई आर (बी-II)]

राजेंद्र कुमार, डेस्क अधिकारी

New Delhi, the 15th July, 2009

S.O. 2136.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award. (Ref. No. 2/43/2003) of the Central Government Industrial Tribunal/Labour Court No.2, Mumbai, now as shown in the Annexure in Industrial Dispute between the employers in relation to

the management of Union Bank of India and their workman, which was received by the Central Government on 15-07-2009.

[No. L-12011/129/2003-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-
TRIBUNAL No. 2, MUMBAI

PRESENT : A. A. Lad, Presiding Officer

Reference No. CGIT-2/43 of 2003

Employees in relation to the Management of Union Bank of India

The General Manager (P), Union Bank of India

239, Vidhan Bhavan Marg, Nariman Point

Mumbai-400 021.

And

Their Workmen

The General Secretary

Union Bank Employees Trade Union Congress

27, Burjorji Bharucha Marg,

Fort, Mumbai-400 023.

APPEARANCES

For the Employer : Ms. P. S. Shetty
Advocate.

For the Workmen : Mr. K. P. Anilkumar
Advocate.

Mumbai, dated 7th May, 2009

AWARD PART-II

The Government of India, Ministry of Labour by its Order No. L-12011/129/2003 IR(B-II) dated 14-08-2003 in exercise of the powers conferred by clause (d) of sub section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Union Bank of India, Mumbai in imposing the penalty of stoppage of three increments with cumulative effect upon Shri Ashok Shivnani, Clerk is justified? If not, what relief the workman is entitled to?"

2. Claim Statement is filed by the second party, General Secretary of the Union Bank Employees Trade Union Congress, at Exhibit-5 making out case that, the concerned workman by name A. N. Shivnani, joined first party, Bank as a Clerk-cum-Cashier, in Zonal Office (MM Zone). He was chargesheeted on 30-9-1997 alleging that he fraudulently made encashment of cheque for Rs. 1.5 lakhs on 7-5-1997 when he was working at Khand Bazar Branch. It is alleged that, fraud could have been detected earlier has the concerned workman, Shivnani, taken proper care since that time Shivnani was working in Scroll Department and worked as Incharge of issuing tokens against instruments been alert. According to General Secretary, concerned workman, though he never worked in the scroll seat before

that and was not having experience of that work. Even it was his case that, he did not notice the missing of token No. 17 when he left for toilet and when he returned on the seat. It is case of the union that, concerned workman Shivnani denied the hand writing on the "instrument". According to the General Secretary since said instrument ought to have been watched for encashment against Token No. 17 and the fraud would have come to the light on 7-5-1997 itself, no question arises to involve Shivnani alleging that he was responsible for the encashment of scroll of Token No. 17. According to General Secretary, concerned workman Shivnani, was subjected to domestic enquiry and as a consequences of which he was awarded three punishment i.e. censure, stoppage of three increments with cumulative effect and non-payment of salary and allowances or increments during the suspension period. According to General Secretary, case of Shivnani does not deserve this type of punishment. He was illegally suspended and was deprived of half salary for that period. He was wrongly punished for single act and the punishment is not as per law. There is no enquiry regarding whose hand writing was behind the 'instrument' and how this instrument travelled and who are responsible for such a travelling. As per chargesheet, it was alleged that, Shivnani failed to inform about the missing of Token No. 17 to the official of the Bank. It is not admitted to concerned workman Shivnani. According to General Secretary, concerned workman Shivnani did not know that, Token No. 17 was missing and without entertaining such suspicion he denied to have issued the token after returning from toilet. It is case of the Union that, that time, he did not notice the missing of the token. Besides this charge levelled against Shivnani, the charge of adding Token No. 17 in between entries of 16 and 18 to tally the scroll book was levelled against him. However, in the domestic enquiry, deposition of one Mr. M. Y. Jitekar, Head Incharge of Cash Department has stated that, Shivnani intimated the missing token No. 17 and short of Rs. 1.5 lakhs on 7th May, 1997. In fact, office ought to have enquired into the said charge but it was not done and Shivnani was made scapegoat of it just to victimise him. Even said witness has stated in the domestic enquiry that, he requested Mr. Panjwani to see into the matter that, he requested Mr. Panjwani to see into the matter and locate the difference and on that Mr. Panjwani went to Mr. Zepale who was writing case and supplementary book had all cash paid instruments in his possession. He has further stated in the domestic enquiry that, from the said lot Mr. Panjwani took out two cash paid instruments of Rs. 1.5 lakhs each. Mr. Panjwani brought and showed those 2 instruments of Rs. 1.5 lakhs to him and after showing he took the said instrument to him (Mr. Jitekar, Head Shroff) that, the scroll has tallied with the Cash Payment Register. In the enquiry, it came out that, Shivnani brought the scroll book and informed Panjwani that total cash scroll is tallied. Accordingly it was checked and found the total correct and it revealed that, Shivnani informed Officer and Head Shroff-in-Charge of Cash Department regarding short of Rs. 1.5 Lakhs. Said was informed by Head Cashier to Zepale who had all cash instruments and for that, Shivnani alone cannot be held responsible. According to General Secretary, had there been

proper enquiry and followup, the fraud could have been detected on 7th May, 1997 itself. General Secretary states that, when Shivnani informed the Management witness i.e. concerned Head Cashier of the Cash Department about shortage on 7th May, 1997 and the paid cheque under Token No.17 and when it was followed by him by visiting Panjwani how it can be held that, Shivnani is responsible and has not taken proper care or has not disclosed the missing of the token No.17? General Secretary further states that, management witness in the enquiry disclosed that sealed pack containing the entire cash paid instrument of 7th May, 1997 which was allegedly kept in the Day Book Box by Zepale was found missing. It is case that, all these is not disclosed by leading any evidence to throw light on the fraud but the Bank suppressed it at the Branch level itself and accountability for loss of cash paid instrument has not been fixed on anyone. It is case of the union that for all this Shivnani alone cannot be held responsible. It is case that, in the domestic enquiry witness of the Management, Chief Manager of the Khand Bazaar Branch has stated that Cheque book, bearing Nos. 844001 to 844050 was not issued to any of the constituents of the Bank and the cheque book was missing from the stock of the cheque books. It is case that, it is recorded in the domestic enquiry that, cheque used is one of the leaf from the missing book. It is case that it is also brought on record in the domestic enquiry that, there is lengthy procedure for custody and issue of cheque books in the Bank. General Secretary raised question as to how stolen cheque book bypassed all such procedures and one of its leaf got passed through the computer and verification process at various levels before payment of the said instrument was made which create a strong suspicion against all? It is case that witness No.3 whose evidence was recorded was second signatory for verification and cancellation of the payments of the cheques stated that, he had never seen the cash instrument. It is also case that Mr. Jitekar in the enquiry stated that, cheque was perfectly in order in all respects and duly cancelled by the first and the second signatory for making payment. All these reveal that, there was nothing safe in Khand Bazaar Branch of the Bank and as such Shivnani cannot alone be held responsible for missing of the said token. It is further stated by the General Secretary that, the Inquiry Officer pointed out that Officers of the branch have utterly failed to follow proper procedure and accepted practice and systems which are laid down by the management for the purpose. In that case, it also stated by the General Secretary that, all those facts have emerged from the enquiry proceedings and it is revealed that, Cheque no.8440008 for Rs. 1.5 Lakhs is one from the cheque book which is not issued to any constituents. It is alleged by the General Secretary that culprit has managed to steal the cheque leaf from the Book taking advantage of improper control over the custody of the cheque book and the tokens. It is also alleged by the General Secretary that, procedure of safe keeping of the paid instruments by duly sealed and signed by both, the Head Shroff/Incharge of the Cash Department and Accountant or Branch Manager, who signs the Cash Book Balance, in envelop cash safe is not followed properly in the said branch. The General Secretary states that, under such chaotic state of affairs and unsafe

situation prevailing at Khand Bazaar Branch, Shivnani alone cannot be held responsible. According to the General Secretary, finding of the Inquiry Officer that, there was casual approach of Shivnani to attend to his duties is not correct. Inquiry Officer also observed that, Shivnani is responsible for missing of token is also not correct. The finding of the Inquiry Officer is not based on evidence. It is stated by the General Secretary that, Shivnani was not aware of the Token No.17 of its missing and misused by the culprit. According to General Secretary, there was no opportunity to Shivnani to inform his colleagues or superiors or raise an alarm at that point of time regarding missing of Token No.17 since he himself was not aware of it. Even there is no enquiry regarding whose handwriting was on the reverse of the impugned cheque, no enquiry was held regarding how the said cheque traveled and was passed. It is not the act of only Shivnani to encash the said cheque and clear Token No. against said instrument. So it is submitted that, since Shivnani has been made scape goat for the commission and omission of others, he cannot alone be held responsible for those charges and required to be punished. So it is submitted that, the punishment awarded of stoppage of three increments with cumulative effect be quashed and set aside.

3. This is disputed by the Bank by filing Written Statement at Exhibit-7 making out case that, this Tribunal has no jurisdiction; That, the contents of the Order of Reference did not constitute the 'industrial dispute' under the Industrial Disputes Act, 1947. It is also stated that, union was not entitled to raise this dispute and represent the concerned workman. It is stated that, the said union is not registered one and as such has no locus standi to raise grievance of Shivnani. In fact union has not challenged fairness and propriety of the enquiry. Union has only challenged the findings of the Inquiry Officer alleging its perversity. It is further stated by the Bank that, cheque of Rs.1.5 lakhs was presented for payment on the counter of the said Branch. Said cheque was stolen from the stock of the missing cheque books of the said Branch and was not issued to the C.D. Account No.13105. Even said cheque was not entered in the scroll but was stamped as Token No.17 and was fraudulently paid that being routed through the Current Department of the Branch. It is alleged by the Bank that, Mr. Shivnani was assigned duties as the scroll clerk on the said date, after issuing token No.16, Shivnani left his seat for toilet. On returning back he observed that Token No.17 was missing but he did not raise any alarm, nor brought this to the notice of his superiors but continued to issue tokens from 18 onwards and at the end of it, there was a difference of Rs.1.5 lakhs between cash payment register and scroll book. When it was noticed at the end of the business hours, the entry of token No.17 was entered in the scroll book and scroll book was tallied for that day. According to the Bank, fraud was detected on the next working day i.e. on 9th May, 1997 when the Day Book Department found the difference of Rs.1.5 lakhs since the said cheque was not posted in the Current Deposit Ledger. According to Bank, cash paid instruments when sought, were found missing from the Bank. It is also stated by the Bank that, the fraud belonged to unused cheque

book which was missing from the cheque series-ones. According to Bank, had the concerned workman Shivnani brought the fact of missing of token No.17, which has not been scrolled, immediately on his coming to know about the same fraudulent encashment of the cheque could have been averted since token No.17 was obtained against cheque in the morning, as is observed from the time of issuing token No. 16 & 18 and the payment of the same was made only at 2.20 p.m. to the person who presented the same at the cash payment counter by which time the fraud could have been detected and the Bank would not have incurred monetary loss in that behalf. It is case of the management that, before enquiry was conducted against Shivnani and against Panjwani, Head Cashier of the said Branch, after recording evidence of the Inquiry Officer observed Shivnani guilty of the charge of missing of Token No. 17, it is stated that his finding is not perverse and first party be permitted to lead evidence to prove the charges leveled against the concerned workman if it is observed it is not sufficient. It is stated that three punishments have not been given to the concerned workman as claimed by the General Secretary. Punishment is of stoppage of three increments which is one only. The punishment given is not of the serious nature, if compared with the nature of charge proved against the concerned workman. Said punishment is available against the charge of gross misconduct because of the concerned workman, Bank suffered loss of Rs.1.5 lakhs. The charge of negligence was proved against the concerned workman. Even charge of not taking proper care was also proved against the concerned workman and according to the Bank, the charge of loss to the Bank of Rs.1.5 lakhs is also proved against the concerned workman, since he has not taken proper care and at that moment punishment awarded is just and proper and does not require any interference.

4. Inview of above pleadings, issues were framed at Ex. 14 treating issues Nos.1 to 4 as preliminary issues. Said were decided while passing Part-I award on 13-12-2007 holding enquiry fair, proper and findings not perverse.

5. Now remaining issues are taken for consideration which are answered against it as follows.

Issues	Findings
(v) Is second party entitled for setting aside the punishment of stoppage of increments implemented on him by virtue of said enquiry?	No.
(vi) What relief second party is entitled to get?	No relief.
(vii) What order?	As per order below.

REASONS

Issues Nos. 5 & 6:

6. Claim Statement is filed by the General Secretary of Union Bank "Employees Trade Union Congress challenging the action taken against concerned workman

Mr. Shivnani making out case that, Mr. Shivnani was working as a Clerk-Cashier in Zonal Office, Khand Bazar Branch and on 07-05-1997 when said incident took place. It is case of the union that, charge leveled against concerned workman of encashing cheque of 12.5 lakhs as shown on 7-5-97 when he was working in Khand Bazar Branch is false one. It is case of the union that, concerned workman only is not responsible for the said encashment of cheque of Rs. 1.5 lakhs. There were number of irregularities regarding other tokens. No enquiry was conducted about said token numbers. Only enquiry is conducted about Token no.17 and encashment made against token number 17. It is alleged that number of tokens were missing and number of other staff members were responsible for it. However no enquiry was conducted about same. Besides though enquiry was conducted about entry made between token no.16 & 18 there is no finding about handwriting regarding entry made about token no. 17 in between token no. 16 & 18. It is alleged that, accountability and loss of all cash paid instruments has not been on anyone. Only Mr. Shivnani was made scape goat and others were left clean. It is alleged that action taken against Shivnani is nothing but making farce to shut the mouth of others who are questioning the functioning of the bank. It is alleged that, only Mr. Shivnani is not responsible for the alleged loss caused to the bank. It is alleged that, there are number of other employees of the bank who are responsible for the loss to the bank and as such, action taken by bank in imposing stoppage of three increments with cumulative effect upon Shivnani is not justified and prayed to set aside.

7. The case of the Bank is that, Mr. Shivnani was then working on the post, who was custodian of the tokens. Because of his negligence, bank had to suffer loss of Rs.1.5 lakhs. It is stated that, the shifting of blame on other officials will not help Shivnani to claim innocence and seek benefit. Since tokens were in possession of Shivnani he is responsible for the said and as such, punishment of stoppage of three increments is just and proper which is rather lighter punishment given to Shivnani.

8. Enquiry was challenged by Shivnani. Evidence was led on that point by both, after hearing both, this Tribunal observed enquiry was fair, proper and findings not perverse. It is to be noted that, said finding is not challenged by Shivnani.

9. Now matter is for deciding punishment awarded on Shivnani of stoppage of three increments.

10. It is case of Shivnani that, it is harsh punishment whereas stand of the Bank is that, looking the gravity of offence punishment given of stoppage of three increments is very light one by which he can take lesson and will act punctually.

11. To prove that, Shivnani filed affidavit at Ex-28 repeating the same story about enquiry alleging that, it is not fair and proper. In the said affidavit he alleges that, proper opportunity was not given. He also alleged that, Inquiry Officer was bias and his finding is perverse. In the cross he admits that, he has not taken this contention in

the claim statement alleging that punishment is harsh one on that he closed evidence. Against that, management decided not to lead evidence on punishment and filed purshis at Ex.-30.

12. Union filed Written arguments at Ex-31 with citations. Management filed written arguments at Ex-32.

13. In the arguments also Shivnani repeat same thing commenting on enquiry and go on saying that, enquiry was not fair and proper and findings perverse. He did not speak about punishment and commented how it is shocking. Besides citation referred by him are all on the point of enquiry and findings. Besides in the cross he admits that, he has not at any place in claim statement commented about punishment awarded alleging that, it is harsh one. So when it is not case of workman that, punishment is harsh, question arises why it should be declared not just and proper?

14. Still it is to be noted that, charge of fraudulent act of encashing token No. 17 of value upto Rs.1.5 lakhs is leveled against concerned workman. It is fact that against token No. 17 transaction of Rs.1.5 lakhs was completed on 07-05-1997 and amount of Rs.1.5 lakhs was given by the Bank to the token holder of No.17. It is matter of record that concerned workman was working at the point of time on that post and he was responsible for the possessions of tokens. He made a stray reference some where that, he was new one and since he was not having experience he cannot be held responsible which in my considered view cannot be ground to excuse the concerned workman for the said encashment of Rs.1.5 lakhs that too in 1997. Besides punishment awarded of stoppage of three increments is rather a punishment given as corrective measure and no doubt by said punishment, some financial penalty was imposed upon the concerned workman does not mean that it is serious punishment. In fact more serious action was expected against such a misconduct when it was proved that concerned workman was responsible for the fraudulent transaction of encashment of Cheque for Rs.1.5 lakhs against token no.17 on 7-5-97. When concerned workman was fully responsible for the said transaction and journey of token no. 17 from the place of it issued till it was encashed how it can be said, that, he is not responsible at all? The punishment of stoppage of three increment if compared to loss occurred to Bank of Rs.1.5 lakhs in 1997 and stigma on the reputation of Bank, in my considered view punishment awarded is very meager than the actual loss occurred to the bank.

15. Besides on number of places concerned workman was saying that, others are not enquired and he is only held responsible. In my considered view, concerned workman cannot finger at others. Bank will take its own action regarding other culprits. But only because others are not punished, this gentle man has reason to request Bank to consider him on that degree and expect same relief when charge leveled against concerned workman is proved.

16. It is to be noted that, charge leveled against concerned workman is proved. It is to be noted that Bank succeeded in showing that enquiry was fair and proper. It

is to be noted that banks succeeded in showing that finding of Inquiry Officer was not perverse. All these reveal that disciplinary authority had reason to accept the finding of the Inquiry Officer as well as had reason to take action against concerned workman. All these reveals that disciplinary authority had reason to take action against concerned workman and accordingly decided to take action and decided to stop three increments of the concerned workman.

17. When enquiry is fair, proper and findings not perverse it reveals that, charge levelled against concerned workman is proved. When charges levelled against concerned workman are proved, it is the prerogative of the disciplinary authority to award punishment. According to me, here disciplinary authority has only stopped three increments which did not affect forever on the concerned workman. It is to be noted that, he was permitted to continue with the Bank and it may be that he might have to work with Bank till he attains the age of superannuation. According to me, only stoppage of three increments cannot be treated or observed as harsh or shockingly disproportionate compared with charges levelled and proved against concerned workman.

18. Considering all these coupled with case made out by both, I conclude that, punishment awarded to concerned workman of stoppage of three increments is just proper and does not require any interference. So I answer these issues to that effect and passes the following order.

ORDER

Reference is rejected.

with no order as to cost.

Date: 07-05-2009

A. A. LAD, Presiding Officer

नई दिल्ली, 16 जुलाई 2009

का.आ. 2137.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं ई. सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, असनसोल के पंचाट (संदर्भ संख्या 118/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/404/2004-आईआर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 16th July, 2009

S.O. 2137.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 118/2005) of the Central Government Industrial Tribunal-cum-Labour Court Asansol now as shown in the Annexure in the Industrial Dispute between the management of Eastern Coalfields Limited, and their workman, which was received by the Central Government on 16-07-2009.

[No. L-22012/404/2004-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Sri Manoranjan Pattnaik, Presiding Officer.

Reference No. 118/of 2005

Parties : The Industrial Dispute between the Management Nimcha Colliery;

Vrs.

Their Workman.

REPRESENTATIVES

For the management : None

For the union (workman) Sri S. K. Pnadey General Secretary, K.M.C.

Industry: Coal State: West Bengal

Dated the 27-5-2009

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/404/2004-IR (CM-II) dated 17-08-2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Nimcha Colliery of M/s. ECL in dismissing Sri Noor Alam Khan, U.G. Loader from service w.e.f. 8-4-97 is legal and justified? If not, to what relief the workman is entitled and from which date?"

2. On receipt of the Order No. L-22012/404/2004-IR (CM-II) dated 17-8-2005 of the above mentioned reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 118 of 2005 was registered on 9-9-2005 and statutory notice was issued to both the parties. While the Union represented by its General Secretary Sri. S.K. Pandey made appearance and filed written statement the management preferred not to contest. Subsequently, the union has also filed same documents. Exparte hearing was taken up. In their bid to prove that the dismissal of Sri Noor Alam Khan U.G. Loader from service w.e. f. 8-4-97 is illegal and unjustified, the union took the plea of illness of the workman. In support of his illness Medical Certificate was filed which has been reflected in the Enquiry Report. However, the enquiry terminated against the workman as the prescription, cash memo etc. were not produced. This does not stand to any reason specially when doctor certifies the illness. Being prevented by the illness said workman remained absent from 31-10-96 to 10-1-97 and when reported back on 11-1-97 was slammed with charge sheet and consequently was dismissed from the service. The plea of the workman has not been rebutted by the management for obvious reason indicating the dismissal as not proper. Second show-cause notice has also not been served. There is no proof of his

re-employment any where during the relevant preceed succeeding the dismissal. Hence, it is expedient to pass and ex parte Award in favour of the workman entitling him all relief sought by him. Accordingly. It is held that the dismissal of Sri Noor Alam Khan, U.G. Loader from service w.e.f. 8-4-1997 by the Nimcha Colliery, ECL is illegal and not justified. The workman be reinstated in service with full back wages from the date of dismissal with all consequential relief thereof. It is ordered

ORDER

Let an award be and same is passed accordingly. Copy of the award be sent to the Ministry of Labour & Employment, Govt. of India, New Delhi.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2138.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार युनाइटेड बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय आशनसोल के पंचाट (संदर्भ संख्या 26/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-22011/51/2004-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2138.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2004) of the Central Government Industrial Tribunal/Labour Court Asansol now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of United Bank of India and their workman, which was received by the Central Government on 17-07-2009.

[No. L-22011/51/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present : Shri Manoranjan Pattnaik, Presiding Officer

Reference No. 26 of 2004

Parties : Management of United Bank of India,
Burdwan.

Vrs.

Their Workman

REPRESENTATIVES

For the management : None

For the union (Workman) : None

Industry : Bank State : West Bengal

Dated the 28-5-2009

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947),

Government of India through the Ministry of Labour vide its letter No. L-22011/51/2004-IR(B-II) dated 3-6-2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the selection of computer operators including modification of the panel by the management of United Bank of India, Burdwan, Regional Office ignoring inter se seniority of the workman who qualified the aptitude test and attended interview is legal and justified? If not, what relief the workman are entitled and from which date? Can the Station Area of consideration (viz Burdwan Municipal Area, Durgapur Project Area etc.) be changed after completion of training aptitude test, interview for the post of computer operators? If yes, what should be the criteria for such change?”

On receipt of the Order No. L-22011/51/2004-IR(B-II) dated 3-6-2004 of the above mentioned reference from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 26 of 2004 was registered on 14-6-2004 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Both the parties remained at variance for sometime heard on the above issue. However, before laying down their respective evidence both the parties gave out in writing to the effect that consequent upon the promotion of the concerned workman i.e. Shamita Das, to the grade of officer, the issue was resolved. On perusal of case record, the petition dated 22-11-2008 and that of the letter of the President of the United Bank of India Employees Congress dated 20-4-2009 it becomes clear that consequent up the promotion of Shamita Das and another three to the officer grade no dispute virtually exists and formal adjudication on the above scheduled issue becomes inconsequential. Accordingly an award of ‘no dispute’ is passed and the matter is disposed of accordingly. Hence ordered.

ORDER

Let an award be and same is passed as indicated above. Copy of the award be sent to the Ministry of Labour & Employment, Government of India, New Delhi.

MANORANJAN PATTNAIK, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2139.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ग्राम न्यायालय संख्या -II, मुम्बई के पंचाट (संदर्भ संख्या 2/5 of 2007/2/25 of 2006) को प्रकशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-12025/01/2009-आईआर (बी-II)]

राजेंद्र कुमार, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2139.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 2/25 of 2006) of the Central Government Industrial Tribunal/Labour Court No. II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 17-07-2009.

[No. L-12025/01/2009-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT : Shri A. A. LAD, Presiding Officer

Complaint No. CGIT-2/5 of 2007

in

Reference No. CGIT-2/25 of 2006

PARTIES

Shri V. Iyyadurai Pushparaj,
Room No. 10,
Rajabali Chawl No. 14,
Dharavi,
Mumbai-400017.

: Complainant

Versus

The Dy. General Manager (HRD),
Central Bank of India,
Central Office,
Chandermukhi,
Nariman Point,
Mumbai-400021.

: Opponent

APPEARANCES

For the complainant : In person.

For the opponent : Mr. L.L.D' Souza,
Representative.

Mumbai, Dated the 29th September, 2008.

AWARD

1. Complainant has filed this complaint under Section 33-A of the Industrial Disputes Act requesting to hold and declare Opponent has deliberately and wilfully contravened the provisions of Section 33-A of Industrial Disputes Act regarding transaction mentioned in paragraph 5 of the complaint.

2. Said was disputed by Opponent by filing reply Ex-3 and matter was posted for recording evidence of the parties.

3. However by Ex-4 both parties arrived at settlement before Lok-Adalat conducted at Mumbai. Hence the Order :

ORDER

In view of Ex-4, complaint is disposed of as per purshis given in Lok Adalat.

Date : 29-9-2008

A. A. LAD, Presiding Officer

Ex-4

PROCEEDINGS OF THE LOK ADALAT HELD AT MUMBAI ON 29-9-2008

PANEL MEMBERS

1. Shri M. B. Anchan, Advocate
2. Shri S. V. Alva, Advocate
3. Shri A.M. Koyande, Advocate
4. Ms. Vibhuti Borhade, Advocate

COMP. CGIT-2/5 OF 2007

Shri V. Pushparaj

V/s.

Central Bank of India

The Panel is informed that the Complaint CGIT-2/5 of 2007 is withdrawn as the Bank has allowed him to resume duties. He has no claim in this complaint.

Matter fixed before Hon'ble Court for orders.

Sd/-

Sd/-

Sd/-

Sd/-

Sd/-

(Panel Members)

(Mr. Ghanekar)

Representative for Bank

Sd/-

Sd/-

(V. I. Pushparaj)

(Advocate Ganesh)

Complainant

For Bank.

Seen

Sd/-

(Presiding Officer)

CGIT-2, Mumbai,

29-9-2008

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2140.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 175/94) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

अभि

[सं. एल-12012/194/94-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2140.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 175/94) of the Central Government Industrial Tribunal/Labour Court No. I, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 17-7-2009.

[No. L-12012/194/94-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH.**

Case I. D. No. 175/94.

Shri Sat Paul C/o Sh. J. C. Bhardwaj, Saproon, Distt.
Solan (Himachal Pradesh).

.....Applicant

Versus

The Divisional Manager, UCO Bank, Post Box 23,
Circular Road, Shimla-171003

.....Respondent

APPEARANCES

For the workman : Sh. J. C. Bhardwaj

For the management : Sh. N. K. Zakhmi.

AWARD

Passed on: 1-12-08

Government of India vide Notification No. L-12012/194/94 IR (B-II), New Delhi dated 1-12-94 referred the following industrial dispute for adjudication of this Tribunal:—

“Whether the action of the management of UCO Bank, Chail/Shimla in terminating the services of

Sh. Sat Paul, Peon w.e.f. February, 1987 is legal and justified? If not, what relief is the said workman entitled to?”

On perusal of entire materials on record, it is evident that the main question for adjudication before this Tribunal is whether departmental scheme adopted by the management can override the provisions of Industrial Disputes Act in regularizing/continuing the workman in service? It is the contention of the workman that he worked with the management from 9-7-1985 to 2-2-1987 continuously and had completed 240 days of work in the preceding year from the date of his termination. His services were terminated without notice and retrenchment compensation against the provisions of Industrial Disputes Act. It is also contended by the workman that he was paid Rs. 12 per day and Rs. 360 was paid to him every month. On the basis of above mentioned averments, the workman has requested for setting aside the termination order with further prayer of his reinstatement into the services with full back wages and consequential benefits.

Management of UCO bank has denied the contention of the workman that he had worked for more than 240 days in the preceding year from the date of his termination. It is contended by the management that the workman was engaged on daily wages as and when work required and was paid for the days he worked. It is further contended by the management of UCO bank that it adopted a scheme regarding the regularization of the services of those workmen who had completed 240 days of work within a period of three years commencing from 12-10-86. As the workman has not completed 240 days of work with the management from 12-10-86 to 11-10-87, he was not considered for regularization of his services. On this very ground, the management has requested this Tribunal for dismissing the claim of work.

Both of the parties were afforded the opportunity of adducing/filing evidence. Sh. Sat Paul filed his affidavit and he was cross-examined by learned counsel for the management on 6-1-07 and 30-4-07. Sh. Rakesh Kumar, Steno, ALC (C) filed his affidavit which was marked as WW2. He was cross-examined by learned counsel for the management on 3-9-07.

Certain documents were filed by the parties. The main documents on which the fate of this reference depends are annexure PA marked A which is the calculation of working days filed by the management before ALC(C) in conciliation proceedings. This letter has been proved by WW2. Annexure PB is the letter written by the workman to the Manager, UCO Bank on 24-8-87 regarding its appointment on regular basis in the bank.

Annexure KC is the failure of conciliation proceedings report, annexure PC is also the letter written by ALC (C), Chandigarh-II to Secretary, Government of India, Ministry of Labour New Delhi.

Annexure M1 is the letter said to be written by Sh. Sat Paul to Zonal Manager, UCO Bank Shimla, dated 26-7-90 and copies of four debit vouchers have also been filed by the management of the bank. Complete file of conciliation proceedings before ALC (C), Chandigarh is on record.

I have heard learned counsels for the parties and perused entire materials on record. It is the contention of the workman that he has completed more than 240 days of work with the management in the preceding year from the date of his termination. On the other hand, the contention of the management is that the workman was not eligible for the benefit of the management policy regarding the regularization of services of workman who has completed 240 days of work within 3 years commencing from 12-10-86. It has been further contended by the management of the bank that as the workman have not completed 240 days of work from 12-10-86 to 11-10-89, he was not given the benefit of policy of the management regarding regularization of service. The management has referred letter written by Sh. Sat Paul to the Zonal Manager which is Ex. M-1 which shows that from 12-10-86 to 11-10-89, he had only worked with the bank for 61 days.

The claims of the management and workman are different. Workman is claiming that he had worked with the management of the bank for more than 240 days in the preceding year from the date of his termination and, accordingly, he is protected from the arbitrary termination from the services. The claim of the management, on the other hand is that as the workman was not eligible for regularization of services as per the scheme of the management of the bank, his services were not rightly regularized. These two contentions are different in nature. Continuance in service on daily wages or the termination from the service as per the provisions of Industrial Disputes Act is altogether a different matter than the regularization of his services. It may be true that the workman might have not completed 240 days of work within 3 years commencing from 12-10-86 to claim the benefit of regularization of services under the scheme adopted by the management and relied upon in its written statement. This Tribunal, while adjudicating this reference has to determine whether the termination of the workman was illegal being against the provisions of Industrial Disputes Act and this issue, in my opinion, has no concern with the regularization of the services of workman under the scheme mentioned and relied upon by the management.

Letter annexure PA which was filed by the management before ALC (C) and proved by an official of ALC (C), Chandigarh. It proved that the workman has completed 268 days of work from 1-1-86 to 31-12-86. The records of ALC (C) which is on file, also proved that the workman has

worked for more than 240 days in the preceding year from the date of his termination. The industrial dispute was raised without any delay and it is not the contention of the management that initial appointment as daily waged worker of the workman was illegal; and the person who appointed the workman was not competent for such appointment. The case being so, the termination of workman was protected by the provisions of Industrial Disputes Act. Needless to mention, the management has powers and authority to terminate the services of the workman, but it could only have been done as per the provisions of Industrial Disputes Act. Meaning thereby, one month's notice or one month salary in lieu of the notice and retrenchment compensation calculated as per the provisions of Industrial Disputes Act was mandatory and necessary requirement before terminating the services of the workman. It was not done by the management, hence, the termination order was illegal. As stated earlier, that the scheme mentioned and relied upon by the management cannot override the provisions of Industrial Disputes Act and it cannot be said that in view of not fulfilling the conditions of the scheme, the workman was estopped to raise a claim for the benefit of the provisions of Industrial Disputes Act.

The termination of the workman being illegal, he is entitled for a suitable remedy. There are two possible remedies for redressal of the grievance of the workman. First is his reinstatement into the services on the same terms and conditions, he was working and another is a reasonable compensation. Considering the facts and circumstances of the case, and considering the view that the workman was not eligible for regularization of the services as per the policy adopted by the management, but, he was entitled for the benefits of the provisions of Industrial Disputes Act, I am of the view that a reasonable compensation will be a suitable remedy. The reasonableness of compensation is to be considered on several factors such as the amount of one month's salary in lieu of one month notice, amount of retrenchment compensation, depreciation in money, interest thereon and litigation expenses incurred by the workman on account of his illegal termination. Considering all the factors mentioned above, I am of the view that an amount of Rs. 25,000 will be a reasonable compensation to be awarded to the workman.

Accordingly, the management of respondent is directed to provide/deposit in the Tribunal Rs. 25,000 as reasonable compensation for redressal of the grievances of the workman. The reference is disposed of accordingly. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2141.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओरियंटल बैंक ऑफ कॉमर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 67/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-12012/200/2001-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2141.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2002) of the Central Government Industrial Tribunal/Labour Court No.1, Chandigarh now as shown in the Annexure in Industrial Dispute between the employers in relation to the management of Oriental Bank of Commerce and their workman, which was received by the Central Government on 17-07-2009.

[No. L-12012/200/2001-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH

Case No. I. D. 67/2002.

Shri Kuldeep Singh, S/o Shri Gurdial Singh,
VPO : Mohanpur, Ludhiana-141001.

... Applicant

Versus

The Asstt. General Manager, Oriental Bank
of Commerce, Head Office, Harsha Bhawan,
Cannaught Place, New Delhi-110001.

... Respondent

APPEARANCES

For the workman : None

For the management : Sh. N. K. Zakhmi.

AWARD

Passed on 4-11-2008

Central Government vide Notification No. L-12012/200/2001 IR (B-II), dated 29-4-02, has referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Oriental Bank of Commerce in awarding the punishment of

dismissal from the services to Shri Kuldeep Singh, S/o Sh. Gurdial Singh is just and legal? If not, what relief the workman is entitled to and from which date?”

2. None is present on behalf of the workman. Learned counsel for the management is present. From last many days fixed for the hearing of this case the workman is not ensuring his presence. The reference was referred by the Central Government in the year 2002. Several opportunities have been given to the workman but he is not availing the opportunity of being heard. It is already 1.15 pm. At this stage, I have no option otherwise then to dismiss the claim of workman in reference for non-prosecution and return the reference to the Central Government as such. Accordingly, the reference is returned as such. Let the Central Government be informed. File be consigned.

Chandigarh.

4-11-2008

G. K. SHARMA, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2142.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 100/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-17012/47/96-आईआर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2142.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 100/1997) of the Central Government Industrial Tribunal/Labour Court No.-I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Life Insurance Corporation of India and their workmen, which was received by the Central Government on 17-07-2009.

[No. L-17012/47/96-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 DHANBAD

In the matter of a reference U/s. 10(1)(d) of I. D. Act, 1947

Reference No. 100 of 1997

Parties : Employers in relation to the management of Life Insurance Corporation of India.

And
Their Workmen

Present : Shri H.M. Singh, Presiding Officer

APPEARANCES

For the Employers : Shri M. A. Khan, Advocate

For the Workman : Shri S. Paul, Advocate

State : Jherkhand Industry : Insurance

Dated, the 22nd June, 2009

AWARD

By order No. L-17012/47/96-IR(B-2) dated 23-4-97 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the Senior Branch Manager, LIC of India, Branch-I, Sector-IV, Bokaro Steel City, P.O. Sector-IV, Dist. Bokaro in terminating the services of Subhakant Pathak w.e.f. 7-9-94 is justified ? If not, to what relief is the concerned workman entitled to ?"

2. The concerned workman has filed written statement stating that he was appointed in L.I.C. Branch-I, Sector-IV, Bokaro Steel City as a class-IV worker on and from 26-11-1990 and since then he had been working as a Peon under the management of L.I.C. continuously without any break upto 10-9-94 for about 3 years, during which he has rendered more than 240 days service in each of the calendar years. The concerned workman has been paid his wages every month initially @ Rs. 750 per month calculated @ Rs. 25 per day. The relationship of master and servant between L.I.C. of India and the concerned workman exists because the concerned workman had rendered his services, the benefit of which has been received by the management of L.I.C. of India. In lieu of the services rendered by the concerned workman, he has received remuneration from the L.I.C. of India which satisfies the criteria for master and servant relationship. He had been working as a Peon and the nature of work performed by him was permanent. He had worked regularly for all those years. There was no substitute for him even for a single day. The concerned workman has no permission to leave the place of his work without applying for leave, which he could avail only when duly granted by a competent officer of the L.I.C. of India, Bokaro Branch-I. During April and May, 1995 the concerned workman had applied for leave which was granted by Sri S.P. Pendey, A.C. Bokaro L.I.C. of India Branch-I. A daily wage or a day labourer is never required to apply for leave, nor he enjoys the leave benefit. The management of L.I.C. is a Government of India undertaking having its service rule and regulations

wherein there is no provision for appointment of a coolie for a long period of four years to complete the alleged extra work. The concerned workman was never appointed as a coolie nor he worked as a coolie. The management of L.I.C. as a model employer of the Government is expected to maintain a fairness in the relationship with its workers, as such, the concerned workman shall be deemed to have been regularised and he cannot be thrown of his employment in an arbitrary and whimsical manner. The management had waived the written test and oral interview and allowed him to work for more than three years thereafter suddenly from 7-9-94 he was prevented from marking his attendance, but he continued to perform his job. The management had acted mala fide and is violation of the principles of natural justice by terminating the service of the concerned workman. The management has committed a gross illegality and an unfair labour practice by deputing another person in the same place for the same job, by depriving the concerned workman. It has been prayed that the Honble Tribunal be pleased to pass an award in favour of the concerned workmen.

3. The written statement has been filed by the management stating that the reference is not legally maintainable. There exists no employer—employee relationship between the management and the concerned person. The reference is invalid for the reasons that no demand was ever made to the management.

It has been submitted that the method of recruitment, the conditions of service, the scale of pay and conduct rules regulating the service conditions are governed by the statutes laid down therein. There is an inordinate long delay in approaching for the same without any explanation much less satisfactory explanation and the same is overripe one.

The written statement filed by the workman is full of misleading averments to extract undue concession. In the present case there is factual difference. The management has its own regular employees and the work through some persons is taken casually whenever required. There is no merit in the above reference matter and no relief can be granted in this case. Sri S.K. Pathak was never appointed as a regular one far less against permanent post as class-IV on and from 20-11-90, but was engaged as a coolie i.e. as daily labourer to meet the exigency of extra work load for a certain period on contract basis and on completion of the same his engagement came to an end. He was paid remuneration agreed upon. It has been stated that he was working as a Peon for about four years. He was never appointed as a Peon or as any regular employee as envisaged under the Rules and Regulations governing the Recruitment Procedure. It has been prayed that the Honble Tribunal be pleased to pass an award holding that the action of the management is justified in terminating the services

of the concerned workman and he is not entitled to any relief.

4. Both the parties have filed their respective rejoinders admitting and denying the contents of some of the paragraphs of each others written statement.

5. The concerned workman has produced himself as MW-1 and proved documents, Exts. W-1 to W-9.

The management has produced MW-1—Ardhendu Roy to support the case of the management.

6. It has been argued on behalf of the concerned workman that he worked continuously for more than 240 days in a calendar year and he was paid salary by the management.

7. The learned counsel for the management argued that he was engaged as a Coolie on daily wage basis for doing extra work. He is not entitled for regularisation because he is casual and paid daily wage as per requirement of the management. In this respect the concerned workman (WW-1) has stated in cross-examination at page 4 that—“Initially I was paid on the basis of Rs. 26 per day but later the payment was made on the basis of Rs. 31 per day. The photocopies of the documents have been given to me by the concerned employees of the management and I got those documents from them after the termination of my service. Original of those documents are very much available with the management. It is not a fact that the original documents are not preserved after one year. The originals, as I have said, are still available with the management. Regular permanent employees are being issued pay slips. It is true that is Ext. W-7 the endorsements and signatures on a plain paper.” It show that he is not regular employee and regular employees are being paid monthly and pay slips are issued. He has also stated in cross-examination at page 4 that Sanjay Agarwal, the daily wager, who was appointed in his place. It show that he was daily wager and Sanjay Agarwal has been appointed in his place. In cross-examination at page 5 the concerned workman has stated that “my engagement was required only when the necessary arose or the requirement made.” This only shows that he was engaged on daily wager when there was requirement and when necessity arose. There is no advertisement for the post, no publication has been given. Ext. W-1 shows his school leaving certificate and Ext. W-2 show Employment Exchange card and Ext. W-4 show his application for getting leave from the management, but no any orders has been passed by the management. Ext. W-5 shows that he has demanded advance salary for whom it has been mentioned worked for 12 days has been approved. As per Ext. W-5, W/6, W-6/1, W-6/2, W-6/3, W-6/4 and W-6/5 it only shows that he was paid wages by the management. This does not indicate that he was regular employee of the management

by getting daily wages through voucher. Ext. W-7 only shows that how many days he worked and what amount became due at 25.75 rate total Rs. 387.25 for 15 days. It only shows for how many days work he got wages. In the top of Ext. W-7 it has been written from 15 April to 15 April, 1991. Ext. W-9 is the statement given by the concerned workman for his work is the years 1991, 1992 and 1993. Document marked X for identification is an application by the concerned workmen for his regularisation.

The management referred in its written argument supreme Court Judgements reported in —

(1) (2005) 8 SCC 481, (2) (2006) 4 SCC. 3, (3) (2006) 13 Sec. 727, (4) (2007) 6 SCC. 207 ; and (5) (2007) 1 SCC. 408. In the Uma Devi's case the Honble Supreme Court has clearly stated that an illegal appointment cannot be regularised as it is violation of Article 14 and 16 of the Constitution of India, which provide for equal opportunity is the matter of public employment to all. In the instant case, it is admitted fact that the concerned workman was a daily wager and has worked for few days is the corporation and was not appointed/engaged is accordance with Rules of the Corporation much less by any Competent Authority, and hence such a backdoor entry cannot be regularised nor given powers to the concerned employees to get any relief from the Court of Law only because he managed to work somehow through backdoor entry.

8. In view of the discussions made above, I come to the conclusion that the action of the Senior Branch Manager, L.I.C. of India, Branch-I, Sector-IV, Bokaro steel City. P. O. Sector-IV, Dist. Bokaro in terminating the services of Subhakant Pathak w.e.f. 7-9-1994 is justified: In the result, the concerned workman is not entitled to any relief.

In the above manner the award is passed.

H. M. SINGH, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2143.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 50/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-40012/28/2005-आईआर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2143.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the award (Ref. No. 50/2005) of the Central Government Industrial Tribunal/Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 17-07-2009.

[No. L-40012/28/2005-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 26th day of June, 2009

Industrial Dispute No. 50/2005

BETWEEN

Sri Kalla Gurunadha Rao,
S/o Late Pentayya,
D.No.9-3-50, Nalla Veedhi,
Nagavamsapu Veedhi,
Vizianagaram - 535 001. ...Petitioner

And

The General Manager,
Bharat Sanchar Nigam Ltd.,
Telecom District,
Vizianagaram. ...Respondent

APPEARANCES

For the Petitioner : M/s. Dr. A. Raghu Kumar
& B. Pavan Kumar, Advocates

For the Respondent : Sri Y. Ravindra, Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-40012/28/2005-IR(DU) dated 20-7-2005 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of Bharat Sanchar Nigam Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the management of Bharat Sanchar Nigam Limited represented by its General Manager, Telecom District, Vizianagaram in terminating the services of Shri Kalla Gurunadha Rao Ex-casual Telegraph Messenger, D.T.O., Vizianagaram w.e.f. 11-4-2004 is legal and/or justified? If not, to what relief the workman concerned is entitled?"

The reference is numbered in this Tribunal as I.D. No. 50/2005 and notices issued to the parties.

2. The Petitioner K. Gurunadha Rao raised this dispute challenging his disengagement dated 1-1-2004 as violative of principles of Sec.25F of the Industrial Disputes Act, 1947 and for passing suitable orders. It has been alleged in the claim statement that Petitioner joined as part time casual labour at DTO, Vizianagaram for 4 hours or less than 4 hours for a day on 13-10-1992 on oral orders. In the year 1995 his services were terminated. He filed O.A.No.585/95 the same was disposed off vide order dated 3-5-1995 directing the applicant to file representation for their engagement and said representation shall be disposed off by Director, Telegraph Traffic. Till the disposal of the representation the department has to engage the applicants on hourly basis and to pay them at the rate which was being paid till the date of their disengagement. Under the direction of the Learned Central Administrative Tribunal dated 3-5-95 Petitioner was engaged as part time casual labour on hourly basis vide letter No. E-1/21/P.T Wks/96/65 dated 14-3-96 and he continued to work as such upto 2003. His services were terminated w.e.f. 1-1-2004 on oral instructions without following the provisions of Sec.25F as such, the action of disengagement is illegal and arbitrary. The department of Telecom vide letter No.269-94/98-STN-II dated 29-9-2000 ordered for conversion of all part time labourers in full time labourers and for regularization. It has further been directed that those casual workers who have been working continuously for more than 240 days in a year prior to 1-12-1998 are eligible for conversion into full time worker and regularization. The Petitioner is eligible for conversion into full time and for regularization. While considering the cases of regularization, the Telecom Department did not consider the representations of the Petitioner. The Petitioner has approached the Hon'ble Central Administrative Tribunal by filing O.A. No.59/2004, but the department of Telecom was converted to Bharat Sanchar Nigam Ltd., as such, the Hon'ble Central Administrative Tribunal vide its order dated 22-6-2004 dismissed the original application advising the applicant to approach proper forum. Hence, this petition.

3. Counter has been filed by the Respondent. They have alleged that Sri K. Gurunadha Rao was engaged by the Traffic wing of the Telecom for delivering telegraphic messages. After amalgamation of the traffic wing with the Engineering, staff position of the PT' casual labourers was reviewed and found that staff was in excess. As such, the casual labourers engaged by the traffic wing were discontinued in view of the ban on engagement of the casual labourers. The Petitioner filed a petition before Hon'ble Central Administrative Tribunal, Hyderabad which disposed off his petition and directed to engage the Petitioner on hourly basis. Based on the order of the Hon'ble Central Administrative Tribunal, TDE, Vizianagaram issued order to engage the Petitioner on hourly basis to deliver the

telegram w.e.f. 14-3-96. The SDE(Bldg.) has objected the engagement of casual labourers for delivery of telegrams on hourly basis in view of some reminders on the ban of PT' casual labourers, the services of the Petitioner were discontinued w.e.f. 28-1-2004. Aggrieved by the disengagement of the Petitioner he approached the Hon'ble Central Administrative Tribunal vide OA No.59/04 which was dismissed by the Hon'ble Central Administrative Tribunal on 26-6-2004. Petitioner filed a petition for conciliation which ended in failure. The Petitioner was not engaged by any written order of the Respondents organization. Occasional or casual service purely on hourly basis can not be converted into full time on regularization in accordance with the instructions contained in the letters of Bharat Sanchar Nigam Ltd., New Delhi letter No.N-269-7/2002/Per.IV dated 27-2-2003 for the reasons that there is no sufficient work in DTO, Vizianagaram and existing staff are found in excess as per review by Bharat Sanchar Nigam Ltd., headquarters. In the light of the judgement of the Hon'ble Supreme Court of India in the case of Uma Devi Visakhapatnam. State of Karnataka referred in 2006 SCC (4) page 1, the Petitioner is not entitled for any relief because he has not been appointed.

4. In support of his claim Petitioner filed his affidavit and presented himself for the cross-examination. No evidence has been produced by the Respondents. None of the parties have appeared for the arguments. Hence, the argument was closed.

5. I have perused the claim statement, counter statement and oral evidence of the Petitioner. The contention of the Petitioner that he was appointed in the year 1992, but he was disengaged after some time i.e., 2 months. then he filed OA before Hon'ble Central Administrative Tribunal which directed him to file representation and directed the Respondent to engage him on hourly basis as and when the work is with the Respondent and there is necessity of extra hand. This shows that the Petitioner was not appointed either through the employment exchange or on the basis of any recruitment process. No vacancy was published by the department nor application were invited from general public. The Petitioner's services were terminated in the year 1995. He filed O. A. before the Hon'ble Central Administrative Tribunal which was disposed off on 3-5-95 and Petitioner was directed to make representation to the department and the department was directed to engage the Petitioner on hourly basis till the disposal of his representation. The Petitioner was engaged on hourly basis in the mean time, the department of Posts and Telegraph has merged with Bharat Sanchar Nigam Ltd., which has put a ban on engagement of the casual labourers. The Petitioner was not even a regular casual labour. He was engaged by the department when there was necessity of additional hand to deliver telegrams. There is circular dated 29-9-2000 that no casual labour shall be appointed from this date on the basis of this circular no relief was granted to the Petitioner

by the Respondent since the Petitioner was extra hand as admitted by him in his cross-examination. He was not appointed either through the employment exchange or on the basis of a competitive examination. In view of the case law reported in of Uma Devi Visakhapatnam. State of Karnataka referred in 2006 SCC (4) page 1, the Petitioner has got no legal right for regularization or absorption in the services. Since the department has no work for the Petitioner, Petitioner was disengaged. The action of the department is neither illegal nor arbitrary. The Petitioner is not entitled for the benefits of Sec.25F because Petitioner has not claimed that he has worked for more than 240 days in a year preceding the date of his disengagement. The Petitioner has neither pleaded that he has worked for more than 240 days for getting the benefit under Sec.25F of the Industrial Disputes Act, 1947 nor has proved it by his evidence. As such principles of Sec.25F is not applicable in this case and Petitioner is not entitled for any relief. Petitioner deserves to be dismissed and dismissed accordingly.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 26th day of June, 2009.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri K. Gurunadha Rao NIL

Documents marked for the Petitioner

EX.W1: Copy of orders in OA No. 585/95 dt.3-8-95
EX.W2: Copy of Lr. No.E-1/21/PT Wkrs/96/95 dt.14-3-96
EX.W3: Copy of work particulars of WW1
EX.W4: Copy of Lr.No.269-94/98-STN-II
EX.W5: Copy of Lr. No. TA/STB/20-2/Corr/KW-II/2001/22 dt. 5-10-2001

Documents marked for the Respondent

NIL

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2144.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत संचार निगम, लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 22/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-40012/94/2004-आईआर (डीयू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2144.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited, and their workman, which was received by the Central Government on 17-07-2009.

[No. L-40012/94/2004-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 6th day of March, 2009

Industrial Dispute No. 22/2005

BETWEEN

Sri T. Butchi Babu,
S/o Raja Rao,
K. D. Peta (P.O.), Kummari Veedhi,
Kongasingi Mandal,
Visakhapatnam.

...Petitioner

And

1. The General Manager,
Bharat Sanchar Nigam Ltd.,
Telecom District, Dabagardens,
Visakhapatnam-530020.

2. The Chief General Manager,
Telecom, Bharat Sanchar Nigam Ltd.,
Nampally Road, Abids,
Hyderabad-I.

3. The S. D. O., Telecom,
Bharat Sanchar Nigam Ltd.,
Narsipatnam,
Visakhapatnam.

...Respondent

APPEARANCES

For the Petitioner : M/s. C.Uma Devi & M.Venkata
Ramana, Advocates

For the Respondent : Sri Emani Uma Jaganmohan,
Advocate

AWARD

The Government of India, Ministry of Labour by its order No. L-40012/94/2004-IR(DU) dated 22-12-2004 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal

between the management of M/s. Bharat Sanchar Nigam Ltd., and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s. Bharat Sanchar Nigam Ltd., Telecom District, Visakhapatnam in terminating the services of Sh. T. Butchi Babu, Ex-Part time workman (Sweeper), KDPeta w.e.f. 2-1-2001 is legal and/or justified? If not, to what relief the concerned workman is entitled?"

The reference is numbered in this Tribunal as I.D. No. 22/2005 and notices issued to the parties.

2. Petitioner filed claim statement stating that he was appointed as part time worker (Sweeper) w.e.f. June, 1994 on a monthly wage of Rs. 35. It is submitted that without notice, he was terminated by the management w.e.f. January, 2001. He prayed this court to direct the Respondents to reinstate him with back wages and continuity of service and all attendant benefits.

3. Respondents did not file counter and documents, as such, opportunity to file counter and documents is closed. Case is fixed for Petitioner's exparte evidence on 6-3-2009. Both parties called absent on 6-3-2009. In absence of parties, evidence is closed. Hence, Nil Award is passed in absence of evidence. Transmit.

Award passed accordingly.

Dictated to Smt. P.Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 6th day of March, 2009.

VED PARKASH GAUR, Presiding Officer
Appendix of evidence

Witnesses examined
for the Petitioner
NIL

Witnesses examined
for the Respondent
NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

Nil

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2145.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एस.सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 26/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/74/2006-आईआर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2145.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Company Limited, and their workmen, received by the Central Government on 17-07-2009.

[No. L-22012/74/2006-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Ved Prakash Gaur, Presiding Officer

Dated the 19th day of March, 2009

Industrial Dispute No. 26/2007

BETWEEN

The General Secretary,
(Sri S. Satyanarayana),
Singareni Collieries Employees Union (CITU),
C-30, Bazar Area,
Bellampalli. Adilabad- 504251. . .Petitioner

And

The General Manager,
M/s. Singareni Collieries Co. Ltd.,
Mandamarri Division, Mandamarri,
Adilabad district. ...Respondent

APPEARANCES

For the Petitioner : NIL

For the Respondent : NIL

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/74/2006-IR(CM-II) dated 19-3-2007 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of M/s Singareni Collieries Co. Ltd., and their workman. The reference is,—

SCHEDULE

“Whether the action of the management of M/s Singareni Collieries Co. Ltd., Mandamarri Division in imposing the penalty of reversion to lower stage by reducing one increment w.e.f. 1-2-2005 in respect of Shri Boina Komaraiah is legal and justified? If not, to what relief is the workman entitled?”

The reference is numbered in this Tribunal as I.D. No.26/2007 and notices were issued to the parties.

2. On 19-3-2009 Petitioner called absent and also absent for last several dates. He has not filed claim statement even after more than one and half years of receipt of this reference and after service of notice. It appears that Petitioner is not interested to pursue his case. Hence, the case is closed in absence of claim statement and a 'Nil' Award is passed. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her, corrected and pronounced by me on this the 19th day of March, 2009.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner NIL	Witnesses examined for the Respondent NIL
Documents marked for the Petitioner NIL	
Documents marked for the Respondent NIL	

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2146.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं आल इण्डिया रेडियो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 38/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-42012/87/2004-आईआर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2146.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 38/2005 of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of All India Radio, and their workmen, received by the Central Government on 17-7-2009

[No. L-42012/87/2004-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

Present : Sri Ved Prakash Gaur, Presiding Officer

Dated the 30th day of June, 2009

Industrial Dispute No. 38/2005

BETWEEN

Sri M. Maheswara Rao,
D. No.49-3-175, Gandhiji Colony,
Gunadala, Vijayawada-5.Petitioner
AND

The Station Director,
All India Radio, Vijayawada (A.P.) ...Respondent

APPEARANCES

For the Petitioner : M/s. C. Vijaya Shekar Reddy
& S. Vijay Venkatesh,
Advocates
For the Respondent : M/s. I. Koti Reddy & A. Rama
Krishna, Advocates.

AWARD

The Government of India, Ministry of Labour by its order No. L-42012/87/2004-IR(CM-II) dated 1-4-2005 referred the following dispute under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of All India Radio and their workman in the matter of non-absorption of Sri M. Maheswara Rao in the permanent vacancy. The reference is :—

SCHEDULE

“Whether the action of the management of All India Radio, Vijayawada in dismissing the services of Shri M. Maheswara Rao is legal and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 38/2005 and notices issued to the parties.

2. The workman Sri M. Maheswara Rao filed claim statement alleging therein that he was appointed as a casual labourer in All India Radio in the year 1992. Since then he has been discharging his duties to the best of his ability and thereby worked for 10 years in the Respondent organization and became eligible for regularization, however, Petitioner was not considered for regularization by the Respondent, Petitioner approached ALC(C), Vijayawada for seeking a direction from him to direct the Respondent to regularize the services but the conciliation proceeding ended in failure and the Conciliation Officer submitted failure report to the Government of India. The Petitioner has submitted that initially he was engaged as a Peon between 1988 and 1991 and his duties included carrying files, sweeping, dusting, carrying water, attending water mats etc.. His services were also utilized by the Respondent as a regular peon and he was asked to perform the duty like sweeping, dusting tables, movement of file and movement of hardware. He used to work from 6 AM to 8PM without any holiday. He was initially getting Rs. 900 which was raised to Rs. 1600 P. M. The Petitioner worked till October, 2002, he has put in 240 days in one year or more than one occasion and has become eligible for the regularization. Petitioner is the sole earning member of his family and his family is facing financial hardship due to non-employment of the Petitioner and illegal termination

of the Petitioner by the Respondent. The Petitioner has prayed that by award of this Tribunal the Respondent be directed to absorb him in the permanent vacancy and the action of the management be declared as illegal and non-justified.

3. Counter statement has been filed by the Respondent alleging therein that the Petitioner was never engaged as Peon. That the Petitioner had worked on contract basis at All India Radio, Vijayawada as and when required without any commitment for permanent appointment. The work is being carried out as per actual requirement. It is submitted that pump operation contract work was awarded to M/s Sheik Karimullah, Vijayawada in October, 2001 and on expiry of contract the same has not been extended. In view of the office Memo No. 510016/2/90 Estt.(C) dated 10-9-1993 only those casual labourers who are in continuous service of atleast one year or who has put in more than 240 days in a year are eligible for grant of temporary status and regularization. The Petitioner is neither a casual labourer nor he was employed at such post, he is not entitled for the regularization. Though the Petitioner approached ALC(C), Vijayawada and Respondent management was asked to furnish written comment on the claim petition of the Petitioner which was submitted before the ALC(C) who has arranged conciliation meeting on 4-11-2003 which ended in failure. Therefore, ALC(C), has referred the matter to Ministry of Labour and Employment.

4. The comments were also presented before the Ministry of Labour and Employment by the Respondent. There is no relation of master and servant between the Respondent and the Petitioner. The Petitioner was engaged for a short spell when contractor needed his services. The Petitioner was never paid Rs. 2000 as wages. He was paid Rs. 1600/- for monthly contract. The claim is neither legal nor valid and deserves to be dismissed.

5. Parties were directed to produce their evidences. Petitioner has filed Xerox copy service certificate as Ex. W1, his representation for regularization dated 9-9-96 as Ex. W3, Xerox copy of his representation dated 17-2-2003 as Ex. W5 dated 4-11-2003, Xerox copy of his representation to ALC(C) dated 3-9-2003 as Ex. W6. He has filed his affidavit as examination in chief and presented himself for cross examination. Respondent has also filed English version of the representation before ALC(C) dated 3-9-2003, written comments of the Respondent dated 21-10-2003, M/o Personnel, P & G Pensions and Grievances, Casual Labourers (Grant of Temporary Status and Regularization Scheme) of Government of India, 1993 dated 10-9-93, Minutes of Conciliation Proceedings dated 4-11-2003, a copy of statement of Respondent for onward transmission to Ministry of Labour and Employment dated 8-10-2004. Sri D. Raja Reddy, Programme Executive of Respondent has filed his affidavit in support of the counter statement and has presented himself for cross-examination but the Petitioner remained absent, hence, his cross

examination was closed and the matter was posted for arguments on 21-2-2007. On the date of argument Petitioner called absent whereas Respondent's counsel was present and argued the case.

6. I have heard Respondent's counsel and have perused the claim statement, counter statement, documentary and oral evidence produced by the workman and management before this Tribunal in support of their respective statements. The only contention of the Petitioner before this Tribunal is that he was appointed in the year 1992 and he worked for more than 10 years and continued to work upto October, 2002. He has further alleged that he worked for more than 240 days in the year for one or on more than one occasions and as such has become eligible for the absorption in regular and permanent cadre. His contention is that he should be absorbed in permanent vacancy in view of OM No. 510016/2/90-Estt. (C) dated 10-9-1993. Respondent has filed copy of work order for supply of pump operator, this work order was given to Sri M. Maheswara Rao on a yearly contract basis. The Respondent has further filed copy of the work order dated 26-9-2001 given to M/s. Shaik Karimulla from 1-10-2001 for one year. These work orders have been proved by the Respondent's witness. However, in their comments before ALC(C), the Respondent has stated that as per their record, Sri M. Maheswara Rao has worked as contract labourer from 1988 to 1991 as peon and subsequently from 1992 to October, 2002. He was initially paid Rs. 900 and at the time of his termination he was paid Rs. 1600. This shows that the Petitioner was not engaged or appointed as a regular labourer. He was engaged as a contract labourer. That too, upto October, 2002, there is no evidence on the record, from side of the Petitioner that Petitioner has worked beyond the year 2002 under the control and management of the Respondent. Petitioner has filed Xerox copies of five cheques pertaining to the years 1996, 1997 for Rs. 900 each which has been admitted by the Respondent that Petitioner has carried the work order for the work of pump operator. Thus, the Xerox copy of the cheques filed by the Petitioner does not support his claim that the payment through this cheque was made to him as a wage or monthly pay for a daily wage worker. It was the heavy duty of the Petitioner to prove that he was engaged as casual labourer or daily wage worker. During his cross-examination the Petitioner Sri M. Maheswara Rao has admitted that no appointment letter was given to him. He has admitted that in his own document Ex.W1 it has been mentioned that the Petitioner has worked as contract labourer. He has also admitted that he has worked intermittently with gaps. Though he has denied the suggestion that he was given a contract for one year from May, 2000 to May, 2001 but the document filed by the Respondent proved the contention of the Respondent that one year contract was given to the Petitioner for the work of pump operator from May, 2000 to May, 2001. Thus, the contention of the Petitioner that he was appointed in the year 1992 in All India Radio Service

Station, Vijayawada and he worked till 2002 does not find support either by documentary or oral evidence of the Petitioner. The Petitioner is claiming benefit of the OM dated 10-9-93 a copy of which has been filed by the Respondent. It provides guidelines in the matter of recruitment of the person on the daily wages basis in Central Government offices. In the light of the observation of the judgment given by Hon'ble Central Administrative Tribunal Principal Bench, New Delhi, in the matter of Sri Raj Kamal and others, Visakhapatnam. Union of India, those employees who are presently employed and after rendering one year of continuous service in a Central Government office other than D/o Telecom, Posts and Railways may be regulated by the scheme as appended. This OM related to the date back 10-9-93, but Petitioner has not been able to prove that he was in the service of Respondent in the year 1993 though he claims to have joined the service in the year 1992 but his claim is not supported with evidence, as such, the guidelines given in OM No.510016/2/90-Estt.(C) dated 10-9-93 is not applicable in the case of the Petitioner. Petitioner has not been able to prove either by documents or by oral evidence that he has been working for the Respondent for more than a year or more than 240 days in a year without any break as such, the Petitioner's claim for absorption is neither legal nor justified and this Tribunal has come to the conclusion that the action of the management of All India Radio, Vijayawada in disengaging the services of the Petitioner Sri M. Maheswara Rao is legal and justified and Petitioner is not entitled for any relief because no master and servant relationship was constituted between workman and management. That is the award of this Tribunal. It may be transmitted to the Ministry of Labour and Employment of Government of India.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her, corrected and pronounced by me on this the 30th day of June, 2009.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
WW1: Sri M. Maheswara Rao	MW1: Sri D. Raja Reddy

Documents marked for the Petitioner

Ex.W1: Copy of service certificate
Ex.W2: Copy of Lr. No.(10)95-S/AIR/ADB/98 dt. 22-8-95
Ex.W3: Copy of representation of WW1 dt. 9-9-96
Ex.W4: Copy of cheques dt. 10-1-97, 12-5-97, 9-6-97, 10-10-96, 18-2-97
Ex.W5: Copy of representation to Respondent dt. 17-2-2003
Ex.W6: Copy of representation of WW1 to the Commissioner of Labour dt. 3-9-2003

Documents marked for the Respondent

- Ex.M1: Copy of English version of the representation of the Petitioner dt. 3-9-2003
- Ex.M2: Copy of written comments of Respondent dt. 21-10-2003
- Ex.M3: Copy of extract of M/o Per.P&G Pensions letter on grant of temporary status and regularization dt.10-9-1993
- Ex.M4: Copy of minutes of conciliation meeting dt 4-11-
- Ex.M5: Copy of reply statement of Respondent dt. 8-10-2004

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2147.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं आल इण्डिया रेडियो के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 37/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-42012/86/2004-आईआर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2147.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of All India Radio and their workmen, received by the Central Government on 17-7-2009.

[No. L-42012/86/2004-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM-LABOUR-COURT
AT HYDERABAD**

PRESENT : Sri Ved Prakash Gaur, Presiding Officer

Dated the 30th day of June, 2009

Industrial Dispute No. 37/2005

BETWEEN

Sri K. Jaya Rao,
D. No. 21-10/1-97, 3rd Line,
Ambedkar Colony,
Mutyalampadu, Vijayawada-11.

....Petitioner

AND

The Station Director,
All India Radio, Vijayawada (A.P.)

...Respondent

APPEARANCES

For the Petitioner : M/s. C. Vijaya Shekar Reddy
& S. Vijay Venkatesh,
Advocates

For the Respondent : M/s. I. Koti Reddy &
A. Rama Krishna, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-42012/86/2004-IR(CM-II) dated 1-4-2005 referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of All India Radio and their workmen in the matter of non-absorption of Sri K. Jaya Rao in the permanent vacancy. The reference is :—

SCHEDULE

“Whether the action of the management of All India Radio, Vijayawada is not absorbing in permanent vacancy of Shri K. Jaya Rao is legal and justified? If not, to what relief the workman is entitled to?”

The reference is numbered in this Tribunal as I.D. No. 37/2005 and notices issued to the parties.

2. The workman Sri K. Jaya Rao filed claim statement alleging therein that he was appointed as a casual labour in All India Radio in the year 1996. Since then he has been discharging his duties to the best of his ability and thereby worked for 7 years in the Respondent organization and became eligible for regularization, however Petitioner was not considered for regularization by the Respondent, Petitioner approached ALC (C), Vijayawada for seeking a direction from him to direct the Respondent to regularize the services but the conciliation proceeding ended in failure and the Conciliation Officer submitted failure report to the Government of India. The Petitioner has submitted that his duties included plumbing, cleaning, maintenance and repair of drainage, pipe repair and maintenance, roof cleaning etc. His services were also utilized by the Respondent as a regular peon and he was asked to perform the duty like sweeping, dusting tables, movement of file and movement of hardware. He used to work from 8 AM to 9PM without any holiday. He was initially getting Rs. 750 which was raised to Rs. 2000 PM. The Petitioner worked till June, 2004, he has put in 240 days in the year before the disengagement from the services and has become eligible for the regularization. Petitioner is the sole earning member of his family and his family is facing financial hardship due to non-employment of the Petitioner and illegal termination of the Petitioner by the Respondent. The Petitioner has prayed that by award of this tribunal the Respondent be directed to absorb him in the permanent vacancy and the action of the management be declared as illegal and non-justified.

3. Counter statement has been filed by the Respondent alleging therein that the Petitioner was

intermittently engaged for a specific work as and when required without any commitment for permanent appointment. The cleaning of drainage work at All India Radio, Vijayawada is being carried out by Civil Construction Wing by the O/o the Assistant Engineer (Civil), CCW, Air, Vijayawada, by inviting sealed quotations/tenders and entrusting the work to the lowest quotationer/agency after following the departmental procedures which is not a continuous work. The work is being carried out as per actual requirement. On one occasion Petitioner was awarded with the work of the cleaning of the draige of branch for three months on contract basis, being the lowest bidder from 1-5-2002 to 31-7-2000. From August, 2000 Sri K. Jaya Rao has been deployed for the above works as and when required by the concerned agency. He never engaged to work under control and provision of the Respondent for more then 240 days. He has never worked continuously, as such he is not entitled for the regularisation. In view of the office memo No. 510016/2/90-Estt (C) dated 10-9-1993 only those casual labourers who are in continuous service of atleast one year or who has put in more than 240 days in a year are eligible for grant of temporary status and regularization. The Petitioner is neither a casual labour nor he was employed at such post, he is not entitled for the regularization. Though the Petituoner approached ALC(C), Vijayawada and Respondent management was asked to furnish written comment on the claim petition of the Petitioner which was submitted the ALC(C) who has arranged conciliation meeting on 4-11-2003 which ended in failure. Therefore, ALC(C), has referred the matter to Ministry of Labour and Employment.

4. The comments were also presented before the Ministry of Labour and Employment by the Respondent. There is no relation of master and servant between the Respondent and the Petitioner. The Petitioner was engaged for a short spell when contractor needed his services. The Petitioner was never paid Rs. 2000/- as wages. He was paid Rs. 950/- for monthly contract. The claim is neither legal nor valid and deserves to be dismissed.

5. Parties were directed to produce their evidences. Petitioner has filed Xerox copy of gate passes as Ex.W.3, xerox copy of covering letter for his representation to ALC(C) as Ex.W4 dated 4-11-2003 along with reply given to ALC(C), caste certificate as Ex.W5, SSC certificate as Ex.W6, employment registration card Xerox copy as Ex.W7. He has filed his affidavit as examination in chief and presented himself for cross examination. Respondent has also filed English version of the representation before ALC(C) dated 9-9-2003, written comments of the Respondent dated 21-10-2003, M/o Personnel, P & G Pensions and Grievances, Casual Labour (grant of temporary status and regularization scheme) of Government of India, 1993 dated 10-9-93, Minutes of conciliation proceedings dated 4-11-2003, a copy of statement of Respondent for onward transmission to

Ministry of Labour and Employment dated 8-11-2004. Sri D. Raja Reddy, Programme Executive of Respondent has filed his affidavit in support of the counter statement and has presented himself for cross examination but the Petitioner remained absent, hence, his cross examination was closed and the matter was posted for arguments on 21-2-2007. On the date of argument Petitioner called absent whereas Respondent's counsel was present and argued the case.

6. I have heard Respondent's counsel and have perused the claim statement, counter statement, documentary and oral evidence produced by the workman and management before this tribunal in support of their respective statements. The only contention of the Petitioner before this tribunal is that he was appointed in the year 1996 and he worked for more than 7 years and continued to work upto June, 2004. He has further alleged that he worked for more than 240 days in the year preceding date of his disengagement and as such has become eligible for the absorption in regular and permanent cadre. His contention is that he should be absorbed in permanent vacancy in view of OM No. 510016/2/90-Estt.(C) dated 10-9-1993. Respondent has filed copy of work order of the cleaning of the sewerage line, water line, this work order was given to Sri K. Jaya Rao for May, 2000, July, 2000 for three months on a total sum of Rs. 4450/- . The Respondent has further filed copy of the work order dated 1-8-2000 by which cleaning, sewerage line and water line etc. was given to Sri Ch. Guruvulu from August, 2000 to October, 2000. Work order dated 30-9-2002, in favour of Sri G. Chinna Guruvulu from October, 2002 to March, 2003. Work order dated 30-5-2003, the same was from June, 2000 to November, 2003. These work orders have been proved by the Respondent's witness. However, in their comments before ALC(C), the Respondent has stated that as per their record, Sri K. Jaya Rao has worked as contract labourer from December, 1997 to August, 1998, September, and October, 1998, March, April, May, June, July, August, and September, 1999. For the month of December, 1997 he was paid Rs. 950/- whereas for the month of August, 1998 to October, 1998 he was given Rs. 975/- PM. But from March, 1999 to September, 1999 he was given Rs. 950/- PM as contract labourer. This shows that he Petitioner was not engaged or appointed as a regular labourer. He was engaged as a contract labourer. That too, upto September, 1999. There is no evidence on the record, from side of the Petitioner that Petitioner has worked beyond the year 1999 under the control and management of the Respondent. Petitioner has filed Xerox copy of the cheque dated 22-8-2000 for a sum of Rs. 4450/- which has been admitted by the Respondent that Petitioner has carried the work order for cleaning, sewerage and water lines for three months from May, 2000 to July, 2000 on a total sum of Rs. 4450/-. Thus, the Xerox copy of the cheque filed by the Petitioner does not support his claim that the payment through this cheque was made to him as a wage

or monthly pay for a daily wage worker. It was the heavy duty of the Petitioner to prove that he was engaged as casual labour or daily wage worker. During his cross examination the Petitioner Sri K. Jaya Rao has admitted that no appointment letter was given to him. He has admitted that in his own document EX.W1 it has been mentioned that the Petitioner has worked as contract labourer. He has also admitted that he has worked intermittently with gaps. Though he has denied the suggestion that he was given a contract for three months from May, 2000 to July, 2000 but the document filed by the Respondent proved the contention of the Respondent that three months contract was given to the Petitioner for the cleaning of the sewerage line and water line from May, 2000 to July, 2000 on the payment of Rs.4450 cheque. Thus, the contention of the Petitioner that he was appointed in the year 1997 in All India Radio Service Station, Vijayawada and he worked till 2004 does not find supported either by documentary or oral evidence of the Petitioner. The Petitioner is claiming benefit of the OM dated 10-9-93 a copy of which has been filed by the Respondent. It provides guidelines in the matter of recruitment of the person on the daily wages basis in Central Government Offices. In the light of the observation of the judgement given by Hon'ble Central Administrative Tribunal Principal Bench, New Delhi, in the matter of Sri Raj Kamal and others Visakhapatnam Union of India, those employees who are presently employed and after rendering one year of continuous service in a Central Government Offices other than D/o Telecom, Posts and Railways may be regulated by the scheme as appended. This OM related to the date back 10-9-93. According to the own submission of the Petitioner he was not in the services of the Respondent in the year 1993 but as per his own contention he joined the services in the year 1997 as such, the guidelines given in OM No. 5100 16/2/90-East.(C) dated 10-9-93 is not applicable in the case of the Petitioner. Apart from that the Petitioner has not been able to prove either by documents or by oral evidence that he has been working for the Respondent for more than a year or more than 240 days in a year without any break as such, the Petitioner's claim for absorption is neither legal nor justified and this tribunal has come to the conclusion that the action of the management of All India Radio, Vijayawada in not absorbing the Petitioner in permanent vacancy is legal and justified and petitioner is not entitled for any relief because no master and servant relationship was constituted between workman and management. That is the award of this tribunal. It may be transmitted to the Ministry of Labour and Employment of Government of India.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her, corrected and pronounced by me on this the 30th day of June, 2009.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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WW1: Sri K. Jaya Rao	MW1 : Sri D. Raja Reddy
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Documents marked for the Petitioner

- Ex.W1: Copy of representation of WW 1 dt. 4-9-2003
- Ex. W2: Copy of cheques dt. 22-8-2000, 6-4-98, 7-5-99, 29-4-99 and 8-6-99
- Ex. W3: Copy of gate passes dt. 8-1-2001, 7-9-98 & 17-3-2004
- Ex. W4: Copy of reply of WW1 of the Commissioner of Labour
- Ex. W5: Copy of caste certificate
- Ex.W6: Copy of SSC certificate
- Ex.W7: Copy of Employment Exchange Card

Documents marked for the Respondent

- Ex.M1: Copy of work order dated 1-5-2000
- Ex.M2: Copy of work order dated 1-8-2000
- Ex.M3: Copy of work order dated 1-8-2001
- Ex.M4: Copy of work order dated 30-9-2002
- Ex.M5: Copy of work order dated 30-5-2003
- Ex.M6: Copy of work order dated 1-11-2004
- Ex.M7: Copy of English version of the representation of WW1 dt. 4-9-2003
- Ex.M8: Copy of written comments of Respondent dt. 21-10-2003
- Ex. M9: Copy of extract of M/o. Per. P&G Pensions letter on grant of temporary status and regularization dt. 10-9-1993
- Ex. M10: Copy of minutes of conciliation meeting dt. 4-11-2003
- Ex. M11: Copy of reply statement of Respondent dt. 8-10-2004

नई दिल्ली, 17 जुलाई, 2009

का.आ. 2148:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एफ. सी. आई. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 9/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/114/2004-आईआर (सीएम-II)]

अजय कुमार गोड, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S.O. 2148.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 9/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 17-7-2009.

[No. L-22012/114/2004-IR (CM-II)]

AJAYKUMAR GAUR, Desk Officer

**ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 30th day of March, 2009

Industrial Dispute No. 9/2006

BETWEEN

The General Secretary,
Visakhapatnam Port Empl. Union,
26-15-204, Dharmasakti Bhavan,
Visakhapatnam - 530001

....Petitioner

AND

The District Manager,
Food Corporation of India,
District Office, D.No.47-11-7,
III Floor, Dwarakanagar,
Visakhapatnam-530016.

....Respondent

APPEARANCES

For the Petitioner : Sri D.K. Sarma, General Secretary,
Visakhapatnam Port Employees
Union

For the Respondent : M/s. Lanka Venkateswarlu &
Co., Lanka Jagannadham,
Lanka Venkata Lakshmi and
Lanka Jagannadham, Advocates

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/114/2004-IR(CM-II) dated 26-8-2005 referred the following dispute under section 10(1)(d) of the ID. Act, 1947 for adjudication to this Tribunal between the management of Food Corporation of India and their workman. The reference is :

SCHEDULE

"Whether the action of the management of Food Corporation of India, District Office, Visakhapatnam in reducing the age of superannuation of the workmen working in Port & Dock activity at Visakhapatnam from 60 years to 58 years is legal and justified? If not, to what relief the workmen are entitled?"

The reference is numbered in this Tribunal as I.D. No. 9/2006 and notices issued to the parties.

2. Petitioner Union filed claim statement praying for a direction to call for the records and arrange to issue appropriate direction to the management to retire the workmen on superannuation after attaining the age of 60 years as is the case in respect of the workmen of the Visakhapatnam Port Trust.

3. Respondent filed counter stating that employees doing similar work within the same office are not being paid identically, as such, it can not be demanded by the union employees to be equated to that of the employees of the Visakhapatnam Port Trust and Dock Labour Board nor compared with the employees of the Food Corporation of India. It is further submitted that the management has given notice to the employees of the concerned that for the sustenance and existence of the organisation, the age of superannuation is being reduced from the newly increased 60 years to the original 58 years contracted under which the employer were employed as envisages of Section 9(A) of Industrial Disputes Act, 1947 and thereafter only the same was implemented. In view of the above, the dispute be dismissed.

4. On 13-2-2009, Petitioner is absent while Respondent is present. Petitioner is not attending to this case for last more than two years, as such, evidence is closed. Hence, a Nil Award is passed in absence of evidence. Transmit.

Award passed accordingly.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 9th day of March, 2009.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
NIL	NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 17 जुलाई, 2009

क्र. आ. 2149.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 21/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/67/2006-आईआर(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2149.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. Singareni Collieries Company Limited, and their workmen, received by the Central Government on 17-7-2009.

[No. L-22012/67/2006-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AT HYDERABAD**

Present : Sri Ved Prakash Gaur, Presiding Officer

Dated the 19th day of March, 2009

Industrial Dispute No. 21/2007

BETWEEN

The General Secretary

(Sri Bandari Satyanarayana)

Singareni Collieries Employees Council,

H.No. 18-3-90/3, Ganesh Nagar,

Markendeya Colony,

Godavarikhani, Karimnagar

Dist.-505209.

..... Petitioner

And

The General Manager,

M/s Singareni Collieries Co. Ltd.,

Mandamarri Division,

Mandamarri Adilabad district.

..... Respondent

APPEARANCES

For the Petitioner : Nil

For the Respondent : Nil

AWARD

The Government of India in the Ministry of Labour, by its Order No. L-22012/67/2006 -IR(CM-II) dated 2-3-2007 referred the following dispute under Section 10 (1)(d) of the I. D. Act. 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Co. Ltd. and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s. Singareni Collieries Co. Ltd., in terminating the services of Sri Durgam Posham, with effect from 29-10-1999 is legal and justified? If not, to what relief is the workman entitled?"

The reference is numbered in this Tribunal as I.D. No. 21/2007 and notices were issued to the parties.

2. On 19-3-2009 Petitioner called absent and also absent for last several dates. He has not filed claim statement even after more than one and half years of receipt of this reference and after service of notice. It appears that Petitioner is not interested to pursue his case. Hence, the case is closed in absence of claim statement and a 'Nil' Award is passed. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of March, 2009.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidenceWitnesses examined for the
Petitioner

Nil

Witnesses examined for
the Respondent

Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 17 जुलाई, 2009

का. आ. 2150.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, कोट्टीय सरकार एवं एस. सी. सी. एल. के प्रबंधन के संघर्ष नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, कोट्टीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या-24/2007) को प्रकटित करती है, जो कोट्टीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/70/2006-आई.आर.(सीएम-II)]

अजय कुमार गौर, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2150.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of M/s. Singareni Collieries Company Limited, and their workmen, received by the Central Government on 17-7-2009.

[No. L-22012/70/2006-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AT HYDERABAD**

Present : Sri Ved Prakash Gaur, Presiding Officer

Dated the 19th day of March, 2009

Industrial Dispute No. 24/2007

Between

The General Secretary
(Sri Bandari Satyanarayana),
Singareni Collieries Employees Council,
H.No. 18-3-90/3, Ganesh Nagar,
Markendeya Colony,
Godavarikhani, Karimnagar district-505209Petitioner
And

The General Manager,
M/s Singareni Collieries Co. Ltd.,
Mandamarri Division,
Mandamarri, Adilabad districtRespondent.

APPEARANCES

For the Petitioner : Nil
For the Respondent : Nil

AWARD

The Government of India in the Ministry of Labour, by its Order No. L-22012/70/2006-IR(CM-II) dated 19-3-2007 referred the following dispute under section 10 (1) (d) of the I. D. Act. 1947 for adjudication to this Tribunal between the management of M/s. Singareni Collieries Co. Ltd. and their workman. The reference is,

SCHEDULE

“Whether the action of the management of M/s. Singareni Collieries Co. Ltd., in terminating the services of Sri Gade Narasaiah with effect from 31-8-1998 is legal and justified If not, to what relief is the workman entitled?”

The reference is numbered in this Tribunal as I.D. No. 24/2007 and notices were issued to the parties.

2. On 19-3-2009 Petitioner called absent and also absent for last several dates. He has not filed claim statement even after more than one and half years of receipt of this reference and after service of notice. It appears that Petitioner is not interested to pursue his case. Hence, the case is closed in absence of claim statement and a ‘Nil’ Award is passed. Transimt.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of March, 2009.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner : Witnesses examined for the Respondent :
Nil Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 17 जुलाई, 2009

का. आ. 2151.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 22/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-22012/68/2006-आईआर(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2151.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.22/2007) of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the management of M/s. Singareni Collieries Company Limited, and their workmen, received by the Central Government on 17-7-2009.

[No. L-22012/68/2006-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
AT HYDERABAD**

Present : Shri Ved Prakash Gaur, Presiding Officer

Dated the 19th day of March, 2009

Industrial Dispute No. 22/2007

BETWEEN

The General Secretary
(Sri Bandari Satyanarayana),
Singareni Collieries Employees Council,
H.No. 18-3-90/3, Ganesh Nagar,
Markendeya Colony,
Godavarikhani, Karimnagar dist-505209 Petitioner
And

The General Manager,
M/s Singareni Collieries Co. Ltd.,
Mandamarri Division,
Mandamarri.
Adilabad district.Respondent

APPEARANCES

For the Petitioner : Nil
For the Respondent : Nil

AWARD

The Government of India Ministry of Labour, by its Order No. L-22012/68/2006-IR(CM-II) dated 19-3-2007 referred the following dispute under section 10 (1) (d) of the I. D. Act. 1947 for adjudication to this Tribunal

between the management of M/s. Singareni Collieries Co. Ltd. and their workman. The reference is,

SCHEDULE

"Whether the action of the management of M/s. Singareni Collieries Co. Ltd., in terminating the services of Sri Peekabaniiah, with effect from 11-10-2002 is legal and justified? If not, to what relief is the workman entitled?"

The reference is numbered in this Tribunal as I.D. No. 22/2007 and notices were issued to the parties.

2. On 19-3-2009 Petitioner called absent and also absent for last several dates. He has not filed claim statement even after more than one and half years of receipt of this reference and after service of notice. It appears that Petitioner is not interested to pursue his case. Hence, the case is closed in absence of claim statement and a 'Nil' Award is passed. Transimt.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected and pronounced by me on this the 19th day of March, 2009.

VED PARKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner Witnesses examined for the Respondent

Nil

Nil

Documents marked for the Petitioner

Nil

Documents marked for the Respondent

Nil

नई दिल्ली, 17 जुलाई, 2009

का. आ. 2152.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 316/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-12012/94/2000-आई आर(बी-II)]

राजेंद्र कुमार, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2152.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 316/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 17-7-2009.

[No. L-12012/94/2000-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(b) & (2A) of Industrial Disputes Act, 1947

Reference No. 316 of 2000

Parties : Employers in relation to the management of Indian Bank, Calcutta.

And

Their Workmen

Present : Sri H. M. Singh, Presiding Officer

APPEARANCES

For the Employers

None

For the Workmen

Sri Ranjan Raj, Genl. Secretary.

State : Jharkhand

Industry : Bank

Date, the 29th June, 2009

AWARD

By the Order No. L-12012/94/2000-IR (B.II) dated 18-10-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by Clause (d) of sub-section (1) and sub section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Indian Bank, Calcutta regarding withdrawal of two increments of Shri Parikshan Choudhary, Clerk, Shroff is justified? If not, what relief the workman is entitled to?"

2. This case is pending since 21-11-2000 for filing of Written Statement by the workmen. Thereafter, notices were issued to both the parties for filing of Written Statement but till 8-6-09 Written Statement was filed by the workman concerned.

Sri Ranjan Raj, Genl. Secretary, appeared and filed a petition stating that the workman concerned is not interested to contest the present reference case.

Hence, I pass a No Dispute Award in the present reference case.

H. M. SINGH, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

का. आ. 2153.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बडोदा के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, संख्या-1, धनबाद के पंचाट (संदर्भ संख्या 257/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-12011/62/2000-आई आर(बी-II)]

राजेंद्र कुमार, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2153.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 257/2000) of the Central Government Industrial Tribunal/Labour Court No. I, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 17-7-2009.

[No. L-12011/62/2000-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. I), DHANBAD

In the matter of a reference under section 10(1)(d) (2A) of Industrial Disputes Act, 1947

Reference No. 257/2000

Parties : Employers in relation to the management of Bank of Baroda.

And

Their Workman

Present : Shri Hari Mangal Singh, Presiding Officer

APPEARANCES

For the Management : Sri N. Ramakrishna,
Sr. Manager (HRM)

For the Union : None

State : Jharkhand Industry : Bank

Dated, 30th June, 2009

AWARD

By the Order No. L-12011/62/2000-IR (B-II) dated, 11-9-2000 the Central Government in the Ministry of Labour has in exercise of the powers conferred by Clause (d) of sub-section (1) and sub section (2A) of Section 10 of Industrial Disputes Act 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Bank of Baroda in replacement of advance ledger posting machines by computers and Posting ALPM operators to work on these computers without upgrading these ALPM operators and payment of special allowance is justified? If not, what relief the union is entitled to?”

It appears from the record that this case is pending since 25-9-2000 for filing of written statement by the workman. In spite of notice sent to the sponsoring union by speed post, neither representative nor workman has turned up. It means that workman is not interested to contest the case further more.

In view of such circumstance, I pass a No Dispute Award in present Reference case.

H.M. SINGH, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

क्र. अ. 2154.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार मैं, केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में निम्नलिखित और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर को संदर्भ (संदर्भ संख्या बी जी आई पी/एन जी वी/79/06) को प्रकरित करता हूँ, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-40012/29/2006-आई अर(डी यू)]

सुरेंद्र सिंह, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2154.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/NGP/79/06) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 17-7-2009.

[No. L-40012/29/2006-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/79/06

Date: 08-07-2009

Petitioner/
Party No. 1

Shri Rajendra Devidas Gourkhede
Vaibhav Laxmi Nagar, Kartrey Layout
Kamptee Road,
Nagpur

Versus

Respondent/
Party No. 2

The General Manager (Telecom),
B.S.N.L. Telecom Bhawan, Zom Miles,
Civil Lines, Nagpur-1.

AWARD

Dated 8th July, 2009

1. The Central Government after satisfying the existence of dispute between Shri Rajendra Devidas Gourkhede, Nagpur (Party No. 1) and the General Manager (Telecom), B.S.N.L. Telecom Bhawan, Civil Lines, Nagpur (Party No. 2) referred the same for adjudication to this Tribunal vide its letter No. L-40012/29/2006-IR(DU) dated 16-10-2006 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. “Whether the action of the management of General Manager, Telecom Project (RE), Nagpur in terminating the services their workman Shri Rajendra S/o Shri Devidas Gourkhede w.e.f. 7-12-1988 legal and justified? If not, to what relief the workman is entitled to?”

3. The reference came up for hearing on 21-12-2007 on which the Counsel for Petitioner filed Statement of Claim. The Counsel for Respondent has also filed written statement. On 7-7-2009, the Counsel for Petitioner has filed pursis stating that the Claimant has not approached the counsel for last one year. It seems that the Petitioner is not interested in prosecuting the case. I do not think it proper to continue it on the same stage years together. In the circumstances, no purpose will be served in continuing the case, hence it dismissed for the entitled of the Petitioner and pass the negative award that he is not entitled for any relief. Hence this Award.

Date: 8-7-2009

A. N. YADAV, Presiding Officer

नई दिल्ली, 17 जुलाई, 2009

का. आ. 2155.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं सेंट्रल माईनिंग एण्ड डिजाइन इन्स्टीट्यूट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 143/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-7-2009 को प्राप्त हुआ था।

[सं. एल-42012/290/2001-आई आर(सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th July, 2009

S. O. 2155.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 143/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Central Mining, Planning and Design Institute Limited and their workmen, received by the Central Government on 17-7-2009.

[No. L-42012/290/2001-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/143/02 Date: 08-07-2009

Petitioner/
Party No. 1 The Secretary,
National Coal Organization Employees
Association, CMPDI, Jaripatka,
Nagpur

Versus

Respondent/
Party No. 2 The Regional Director,
Central Mine Planning and Design
Institute Ltd., Regional Institute-IV,
Jaripatka, Nagpur.

AWARD

(Dated: 8th July, 2009)

1. The Central Government after satisfying the existence of dispute between the Secretary, Nagpur (Party No. 1) and the Regional Director, Central Mine Planning and Design Institute Ltd., Regional Institute-IV, Jaripatka, Nagpur (Party No. 2) referred the same for adjudication to this Tribunal vide its letter No. L-42012/290/2001-IR (CM-II) dated 5-8-2002 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the management of CMPDI, through its Managing Director, Ranchi and Regional Director, Nagpur in imparting one week training to the existing Draftsman with a view to change their designation and nature of duties as 'Surveyors' which is almost change of service conditions without complying to Section 9A of the I.D. Act, 1947, is legal and justified?"

3. The Petitioner approached to this Tribunal with the contention that without obtaining any option or the consent, the management arbitrarily deputed certain Draftsman for the training of Surveyor. The Union objected it which resulted in cancelling the training. Subsequent of it, the party transferred the several employees from the cadre of Draftsman to work as a Surveyors. According to the Petitioner, this action of the management is illegal and hence the management should be stopped from transferring as well as sending them work as Surveyors. This amount to a change in service condition under Section 9(A) of I.D. Act and the management should be stopped from performing this illegal action.

The management appeared and resisted the claim supporting its action even the evidence is recorded. In the meanwhile, the management filed the pursis stating that in the passage time now the Draftsman are not in surplus and it does not intend to allow the work of Surveyors to the Draftsman. It has prayed to dispose of the reference being infructuous. The Union by filing the pursis as submitted that they should not be transferred or allotted the work as a Surveyor in future also and issue by answered accordingly. It seems that at present the reference has become infructuous because as per the allegations of the Union it was changed in service condition and at present the management has stopped to transfer the Draftsman as a Surveyor. Therefore, at present, the dispute does not exist which was raised. If in future, the management indulges in such activities or transfers the Draftsman as a Surveyors, if the management indulges in such activities, again the Petitioner Union is at liberty to raise again the same issue. At present the issue which is in dispute does not exist and on this ground only the reference is dismissed and hence this not dispute Award.

Date: 8-7-2009

A. N. YADAV, Presiding Officer